

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

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SALA NAAMBWE and YVETTE NIMENYA,

Plaintiff, Case: 4:17-cv-04123-LLP

vs.

SMITHFIELD FOODS, INC., Boyce Law Firm
Sioux Falls, SD
May 24, 2018
Defendant. 8:45 a.m.

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V I D E O T A P E D E P O S I T I O N O F

SALA NAAMBWE

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APPEARANCES

Ms. Stephanie Pochop
Johnson, Pochop & Bartling
Gregory, South Dakota

Attorney for the Plaintiffs

Ms. Andrea R. Calem
Hunton Andrews Kurth LLP
Washington, DC

Attorney for the Defendant

Also present: Yvette Nimenya
Scott Reed, Smithfield Foods, Inc.

REPORTED BY: Suzanne M. Brudigan, RPR

INTERPRETER: Elias Sindayikengera, A to Z
World Languages

VIDEOGRAPHER: Doug Gerash, Village Media

Suzanne M. Brudigan
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EXHIBIT A

1 to Scott Reed, and then Scott Reed promised them,
2 the employees, that he was going to call each
3 individual for investigate -- for investigation.
4 And she has that letter which was written by the
5 employees, she has a copy of it. That is the
6 document she has besides maybe what you have.

7 Q. All right. Well, we would definitely want to see
8 that as part of the production.

9 Can you tell me what union person asked you
10 to write everything down?

11 (Sotto voce discussion between witness and
12 interpreter.)

13 INTERPRETER: She want to go ahead, explain
14 translate -- speak on her own in English.

15 MS. CALEM: Okay.

16 A. (In English) I'm sorry for my broken English.

17 Q. Your English is fine.

18 A. (In English) I'm sorry. So it wasn't because
19 sometime, you know, when he speak, sometime he
20 don't speak, you know...

21 So it wasn't union. It was employees inside
22 the department. They tell about harassment,
23 embarrassment, yelling, so they decided to
24 sign -- to write note and to sign it so they can
25 send to Scott Reed. So I am union in that

1 department so they give me this paper and I take
2 it to union and I give to BJ, and BJ asked a copy
3 and BJ take it and give -- he give to Candice.
4 And Candice, she report to Scott Reed, and Scott
5 Reed, he responded that he's going to call each
6 one on each time. But they call only one person,
7 his name is Terry, is he Number 1. That's the
8 only call and he went down to explain about
9 bucket, sit down --

10 COURT REPORTER: About what?

11 THE WITNESS: (In English) Bucket. Bucket.

12 COURT REPORTER: Bucket?

13 THE WITNESS: Yeah.

14 COURT REPORTER: Okay.

15 A. -- because you got a medical problems, he want to
16 sit down on bucket but the supervisor, he didn't
17 let him to use that bucket. That's all he went
18 to complain.

19 Q. Okay. Is this the letter that was written about
20 Lisa Christion?

21 A. (In English without translation of question)

22 Yes.

23 Q. All right. We do have a copy about that.

24 A. (In English without translation of question)

25 Okay.

1 Q. I see it on the second page. U-y-t-o?

2 A. (In English prior to translation of question)

3 Yes.

4 Q. Okay. Uyto. And he's the one who actually wrote
5 this down?

6 A. (In English without translation of question)

7 Yeah. (Through interpreter) Yeah, through
8 employees he was like a secretary so he just
9 writing what's being said.

10 Q. And did you have any role in getting the
11 employees to write this down?

12 (Sotto voce discussion between witness and
13 interpreter.)

14 INTERPRETER: She -- I was asking whose idea
15 it was for the letter was written and she said
16 it's not her idea or she didn't have any
17 involvement in this besides her, you know, paper
18 being passed by said employee to her to sign the
19 name but it was all employees involved in. It's
20 not one person idea of writing this paper or this
21 letter.

22 BY MS. CALEM:

23 Q. And you gave the letter to BJ?

24 THE INTERPRETER: (Without translation to
25 witness) She said she --

1 (Sotto voce discussion between witness and
2 interpreter)

3 THE INTERPRETER: So she received this
4 paper. She put it -- she sign on it, initial her
5 name on it, and then she pass to Terry and then
6 Terry passed to someone else. So it wasn't like
7 I first started the letter. It came around and
8 she passed letter on.

9 Q. And after everybody signed it, how did it get to
10 BJ?

11 A. They gave the letter to me since I'm a union
12 member so they thought it was a good idea for me
13 to take that letter.

14 Q. You're the steward of that department now, right?

15 INTERPRETER: Yes, she is.

16 BY MS. CALEM:

17 Q. Do you know how it got to Candice?

18 A. Because BJ was traveling to Las Vegas so he left
19 it to Candice.

20 Q. Okay. And this letter says that Lisa, the lead
21 person, has been disrespectful and harassing the
22 employees on the job?

23 A. Yes, it is true.

24 Q. I understand that Terry's complaint is that he
25 was not allowed to sit down when he was working.

1 yes, I'm the one who give her the permission to
2 leave at 2:30.

3 BY MS. CALEM:

4 Q. All right.

5 THE INTERPRETER: He told her.

6 BY MS. CALEM:

7 Q. All right. Okay. So this is an incident that
8 happened to you recently but this complaint is
9 from the whole department. As the union steward,
10 do you have an idea of how Lisa has harassed or
11 been disrespectful to other employees?

12 THE INTERPRETER: She said there is a lot of
13 complaining or a lot of incident that happen due
14 to Lisa. For instance, like we be walking while
15 we still have, like, one vats.

16 BY MS. CALEM:

17 Q. One what?

18 A. (In English) Vats. (Through interpreter) Vats.

19 Q. What's that?

20 A. (In English without translation of question)

21 The vats is the big container --

22 Q. Oh, the vat?

23 A. -- (in English) they put inside -- yeah, they put
24 inside the meat. (Through interpreter) So they
25 might have one left while they're working, and

1 then Lisa will go to the office to punch this
2 whole employee out while they're still on the
3 line working.

4 Q. So Lisa punches employees out while they're still
5 working?

6 A. (In English) Yes. (Through interpreter) Yes.

7 She will tell employee to punch out, like, at --
8 say that work was supposed to be at 2:18 and
9 while it is 2:18 while the employee is still
10 working, she'll go in the office and punch
11 everybody out while the -- at 2:18 while the line
12 is still going.

13 Q. Okay. Has there been a grievance, a union
14 grievance about this?

15 A. This has been going on for quite a while so
16 everybody is complaining, complaining about it,
17 their paycheck, the hours they've been working
18 because they're getting paid less to what they're
19 supposed to.

20 Q. How many times has this happened?

21 A. I have three names. Kamesu, Sami and Analem who
22 always complain --

23 COURT REPORTER: Can you say the names
24 again?

25 THE INTERPRETER: Kamesu, I don't know how

1 one year, she said.

2 BY MS. CALEM:

3 Q. More than one year. Every day?

4 A. Oh. For punching out people? I mean, punching
5 out before time, she -- personally I saw her
6 doing it three times last month.

7 Q. Okay. Did you see her doing it before last
8 month?

9 A. Yeah, I saw her -- I mean, that's with my -- with
10 my own eyes, I saw her doing it three times last
11 month so I don't know the other month.

12 Q. All right. And what else has Lisa done that is
13 disrespectful and harassing to employees on the
14 job?

15 A. Lisa has language -- language barrier, like she
16 will talk to people as if they are children, they
17 don't matter, so to speak.

18 Q. Can you give me an example?

19 A. For example, on the honey --

20 THE WITNESS: (In English) Honey line.

21 A. -- honey line there was these people work there.
22 They're supposed to hang the meat on a --

23 THE WITNESS: (In English) Tree.

24 A. -- on a tree. So and they do three people give
25 each other a break, 15-minute break, so let's say

1 one people already went on break and if he goes
2 over break, when she saw them or she anyone doing
3 it, she would just talk to them like yelling at
4 them and use all these -- you know, not necessary
5 language, I mean words.

6 Q. What would she say?

7 A. Yeah, she would just yell like that, you know.

8 And because they got a headphone on them so they
9 can't exactly listen or hear the conversation but
10 you can read someone's lips when she's yelling
11 and, you know, using all this kind of anger sort
12 of facial when she's --

13 Q. So her face looks angry and she yells things
14 like, what are you doing, get back there right
15 now, something like that?

16 A. (In English without translation of question)

17 Yeah, where you been. And, you know, when
18 she talk, she talk in some, you know, body
19 language.

20 Q. So her body language is aggressive?

21 A. (In English without translation of question)

22 Yeah.

23 Q. And her voice is loud?

24 A. (In English without translation of question)

25 Yeah.

1 Q. Lisa has a very loud voice anyway, right?

2 THE INTERPRETER: She say although you have
3 a big voice or louder voice, there is a way to
4 speak to people instead of embarrassing them or
5 making them feeling bad, there is a way to speak
6 to people.

7 BY MS. CALEM:

8 Q. Right. I understand that. I just wanted to --
9 I've met Lisa. She just has a loud voice, she
10 has a booming voice. Would you agree with that?

11 THE WITNESS: (In English after translation
12 of question) Yeah.

13 Q. Okay. So she speaks in a very sort of loud
14 disrespectful way to people. Is that accurate?

15 A. Yeah. Yeah. She speak with this aggressive or
16 disrespectful language. One time she was
17 speaking to Rufus and she almost pushed him.

18 Is that --

19 THE WITNESS: (In English) Yeah.

20 A. Her hand almost touch her chest but did
21 not reach -- or her hand touched the chest but
22 not like pushing but like someone speaking with
23 anger and she tried to (indicating).

24 Q. But she didn't push him but she touched his
25 chest. Yes?

1 A. Yes.

2 Q. All right. Is there any other example you can
3 give me of how Lisa is disrespectful to the
4 people in the department?

5 A. There is many people in there, in that
6 department, so personally I cannot know every
7 incident happening in the department. This was
8 the job -- this was Scott Reed job to investigate
9 this complaint and to find out what -- what is
10 really going on in that department.

11 Q. Well, did Scott Reed tell you he was going to
12 speak to each person?

13 A. Yeah. He told Candice that he was going to call
14 each individual, but he only called Terry and
15 that was it.

16 Q. How do you know he told Candice that?

17 A. Because Candice give me -- report to me that.

18 Q. So Candice told you that Scott told her that he
19 was going to speak to everybody. Is that right?

20 A. (In English without translation of question)

21 Yeah.

22 Q. Okay. But you didn't hear Scott say that?

23 A. (In English without translation of question)

24 No.

25 Q. Okay. And going back to Lisa punching people

1 No. Just a scan on top.

2 Q. Okay. Since you've worked at John Morrell or
3 Smithfield, has Lisa behaved like this to
4 employees, generally?

5 A. Like years ago she was very, very bad, but now it
6 seems like she's going down a little bit.

7 Q. When you say she was very, very bad, she was rude
8 and disrespectful?

9 A. (Indicating by witness).

10 Q. Yes?

11 A. (In English) Yes. (Through interpreter) Yes.

12 Q. Okay. And now she's a little less rude and
13 disrespectful?

14 A. (In English) Yeah.

15 Q. And did many employees find her to be rude and
16 disrespectful?

17 A. Yes.

18 Q. All right. Let's go back a little bit to you
19 personally, just I need to ask you a little bit
20 about your background. Where do you currently
21 live?

22 A. (In English) 4901 West 17th Place.

23 COURT REPORTER: 17th Place?

24 THE WITNESS: (In English) Yeah.

25 BY MS. CALEM:

1 A. No, I don't.

2 Q. Other than your children and the father of your
3 children in Dallas, do you have family in the
4 United States?

5 A. No, I don't.

6 Q. And what country are you from originally?

7 A. DRC Congo.

8 COURT REPORTER: Say that again.

9 THE INTERPRETER: DRC.

10 MS. CALEM: Demo -- Democratic Republic of
11 the Congo.

12 THE INTERPRETER: Congo.

13 BY MS. CALEM:

14 Q. What's the highest level of education that you've
15 achieved?

16 A. Sixth grade.

17 Q. When you're not working at John Morrell, are
18 there any particular activities or hobbies that
19 you do?

20 A. Just do home activities, housework.

21 Q. Do you attend a church?

22 A. Yeah, I do.

23 Q. Which church do you attend?

24 A. Fellowship Church.

25 Q. In Sioux Falls?

1 call her back.

2 Q. When did you go there?

3 A. I don't remember exact month but I believe in
4 2016.

5 Q. Just that one agency? Did you try any others?

6 A. I just lost my hope so I didn't try any other
7 agency.

8 Q. Are there any social services agencies, like
9 Lutheran Social Services, that might help you
10 find another job?

11 A. Lutheran cannot help me because I'm not one like
12 needy refugees because they help those -- you
13 know, first the new-comers.

14 Q. New immigrants?

15 THE INTERPRETER: New immigrants, yeah.

16 BY MS. CALEM:

17 Q. So you haven't looked there because you think
18 they deal with new immigrants and they're not
19 going to work with you?

20 A. Yeah, that's the rules.

21 Q. All right. I want to talk about the incident
22 with Scott Genzler. Can you tell me what you
23 remember happened that day?

24 A. It was Friday, 19th.

25 Q. 19th of February?

1 A. Yeah. February. At 1:30. I was opening the
2 socks or net for him. And while I was opening
3 the net for him, he just told me, Open --

4 THE WITNESS: Fucking socks --

5 A. -- the fucking socks like this.

6 Q. When he said "like this", did he show you what he
7 meant?

8 A. When he received the net, he opened wide open,
9 like wide open.

10 Q. And he wanted you to open it wider?

11 A. He -- I didn't know what he wanted because we're
12 not supposed to open it wider, because if you
13 open it wider, it won't -- if you put it to the
14 horn, it won't stay on the horn.

15 COURT REPORTER: To the what?

16 Q. Because it won't stay on the horn?

17 A. So usually you aren't supposed to open way too
18 bigger --

19 Q. You're not supposed to stretch the net very
20 big --

21 A. You're supposed to have it like a -- at a medium
22 level. But him, he just opened wide, like way
23 too wider. So if you open wider, it will go into
24 the horn, but the next person who put it in, it
25 would be harder for him or her because it's

1 already -- it's already been open wider.

2 (Outside noise interference.)

3 THE VIDEOGRAPHER: Have him repeat the last
4 sentence.

5 Q. Okay. So we're going to take a step back here.
6 So this is the net, and you have to open it wide
7 enough for the ham to go in; is that right? Is
8 it a ham?

9 A. That what you're supposed to apply to something
10 like a pole.

11 Q. The horn?

12 A. The horn. So, and the person who's up will push
13 so the ham go through that net.

14 Q. Okay. So the person above pushes the ham down
15 and it's the -- the net or the sock is supposed
16 to be just big enough the ham goes in; is that
17 right?

18 THE WITNESS: Can I try to explain?

19 Q. Sure, yeah, yeah.

20 A. (In English) We work like this. Yvette job is
21 clipping here. My job is to open the socks and
22 give it someone to work on the horn so we have
23 some horn is along from here, you know, to here
24 (indicating). So when I give the person a net,
25 he have to, you know, close the horn so this

1 person is here on top of job so he's going to
2 press a button and the ham's go through to the
3 horn already -- already dress the horn so when he
4 get out, it get out with the net. That's how it
5 is.

6 Q. Okay. So the net gets set up on the horn?

7 A. (In English without translation of question)

8 Right.

9 Q. The ham goes in and slides out with the -- with
10 the net on it?

11 A. (In English without translation of question)

12 Yes.

13 Q. Then it goes to get clipped?

14 A. (In English without translation of question)

15 Yes.

16 Q. Okay. And was your job to set up the nets on the
17 horn?

18 A. (In English without translation of question)

19 My job is to open the socks and give to
20 someone who set up on horn.

21 Q. Okay. And he said, Open the fucking socks like
22 this, meaning wider?

23 A. (In English without translation of question)

24 Yes.

25 Q. Did he demonstrate what he wanted or what he

1 thought you should do?

2 A. Yes. He demonstrate -- demonstrate that to me
3 but it wasn't how we would do it.

4 Q. But he thought that was incorrect, that was not
5 the way to do it, right?

6 A. Yes. It wasn't correct.

7 Q. So then what happened after that, when -- after
8 he said, Open the fucking socks like this?

9 A. (In English) Bitch, fucking like this. (Through
10 interpreter) And the second time, I hand it to
11 him the socks, he said like what she just said,
12 bitch, open like this.

13 Q. So what was Scott's job that day?

14 A. He was pulling net onto the horn.

15 Q. Ah, okay. So he was saying open the nets bigger
16 and then he was supposed to put them on the horn,
17 right?

18 A. The second time I did how he wanted it, how he
19 wanted it to be, but instead of do -- or do
20 whatever supposed to, he just used that language
21 that he used.

22 Q. Now, before he said, Open the fucking socks like
23 this, had there been any discussion with him, any
24 argument?

25 A. A day before prior to the incident, he tried to

1 incident?

2 A. It happened before -- the massage happened before
3 the spraying.

4 Q. Did you have any other incidents involving Scott
5 Genzler before this incident on February 19th?

6 A. No. It's just those two.

7 Q. All right. And then after the incident on the
8 19th when you were talking to people from the
9 union and from the personnel office, did you
10 bring up either of those incidents, the massage
11 or the spray?

12 A. At that time I didn't bother to bring, like, two
13 more case on top of the one that I had so I
14 decide to just continue with the one that day at
15 that moment.

16 Q. All right. So we're back to the incident on
17 February 19th and Scott has made these comments,
18 two comments. Then what happened after he made
19 the second comment?

20 A. (In English) If you don't --

21 THE INTERPRETER: Go ahead.

22 A. (In English) -- want to work a job, you have to
23 go back to your fucking country Africa.

24 THE INTERPRETER: That's the next comment he
25 made.

1 BY MS. CALEM:

2 Q. And after he made the first statement, did you
3 respond to him?

4 A. No, I didn't.

5 Q. What about the second statement, did you say
6 anything to him after that?

7 A. I was scared. I didn't respond.

8 Q. And after he said, Go back to your fucking
9 country Africa, did you say anything to him?

10 A. No, I didn't say anything.

11 Q. Okay. Did you speak to anybody else?

12 A. I -- the only response -- the only time that I
13 responded was when Yvette told me, this is a big
14 problem, we got to go to church -- tomorrow is a
15 Saturday. We go to -- we got to pray to God
16 about this.

17 THE WITNESS: (Speaking Swahili to
18 interpreter.)

19 Stop speaking fucking -- your language,
20 speak fucking English.

21 THE INTERPRETER: And I respond to him, You
22 are right, and then he continued saying what the
23 comment she just made.

24 BY MS. CALEM:

25 Q. So he heard Yvette speak to you in Swahili and

1 you responded in Swahili --

2 A. (In English without translation of question)

3 Yeah.

4 Q. -- and he made the comment, Stop speaking your
5 language, speak English?

6 A. (In English without translation of question)

7 Fucking English.

8 (Sotto voce discussion between witness and
9 interpreter.)

10 A. (In English) This is a free country, you can
11 speak any language you want. (Through
12 interpreter) And then I said, This is a free
13 country, you can speak any language you want.

14 Q. And did he say anything when you said that?

15 A. No.

16 Q. Did anyone else say anything to Scott during this
17 time?

18 A. Yes. After -- after a while, they switched,
19 Lorena --

20 THE WITNESS: (In English) Becky.

21 THE INTERPRETER: Becky, sorry.

22 Becky and Scott switch. Lorena came down
23 and Scott went up so --

24 BY MS. CALEM:

25 Q. Becky came down --

1 THE INTERPRETER: Yeah, Becky came down and
2 Scott went up. So when Scott get there, he
3 started pushing the meat. Like, one of them fell
4 on my feet and another one hit Lorena --

5 Lorena's hip, is it?

6 THE WITNESS: (In English) Hip.

7 THE INTERPRETER: -- hip. And Lorena ask
8 me, what's going on, why are you bringing such
9 attitude at a workplace.

10 BY MS. CALEM:

11 Q. And what did he say?

12 A. At that moment he was quiet. He didn't say
13 anything.

14 Q. Okay. So he and Becky switched places. He went
15 up to where he's supposed to push the hams down
16 and he just kept pushing them hard and fast
17 without looking to see if the sock was ready; is
18 that correct?

19 A. Yes.

20 Q. Yes?

21 A. Yes.

22 Q. And one of them fell on your feet?

23 A. Yes.

24 Q. And one hit Lorena in the hips?

25 A. Yes.

1 Q. Did anything else happen after that?

2 A. The time that we went today [sic], we took the
3 last break, it was at 2:15. Yvette was in front
4 of me, at that moment there was her, Yvette and
5 Lorena.

6 THE WITNESS: (In English) Lorena, Yvette,
7 Becky, Scott and me.

8 THE INTERPRETER: So Lorena, Yvette --

9 THE WITNESS: Lor -- hold on. Lorena.

10 THE INTERPRETER: There was --

11 THE WITNESS: Lorena.

12 THE INTERPRETER: Lorena.

13 THE WITNESS: Yvette.

14 THE INTERPRETER: Yvette.

15 THE WITNESS: Scott.

16 THE INTERPRETER: Scott.

17 THE WITNESS: Me and Becky.

18 THE INTERPRETER: And Becky. Yeah, yeah.

19 BY MS. CALEM:

20 Q. So there were five of you working that particular
21 line?

22 A. (In English without translation of question)

23 Uh-huh. We were going to break --

24 Q. Okay.

25 A. -- and Scott, he said -- I heard it and Lorena.

1 He said I was doing that because of these two
2 monkeys.

3 Q. Who did he say that to?

4 A. (In English without translation of question)

5 He said while we was walking.

6 Q. While you were walking?

7 A. (In English without translation of question).

8 Her (indicating), she didn't hear anything,
9 but me, I was -- I was -- I was heard it and --

10 Q. And Lorena heard it?

11 A. (In English without translation of question).

12 Lorena and --

13 MS. POCHOP: Becky?

14 THE WITNESS: (In English) No. Eudoxio. So
15 I don't know about --

16 COURT REPORTER: Who was that?

17 THE WITNESS: (In English) Eudoxio.

18 MS. CALEM: It's E-u-d-o-x-i-o.

19 A. (In English) So when we come back from break, I
20 was really upset to be called monkey, because
21 when I check over here (indicating), I don't have
22 a tail. I was so mad. And Eudoxio, he came, he
23 ask me, how are you going to do about this --
24 this calling monkey. You're not going to go
25 report? And she ask, did we get called monkey?

1 BY MS. CALEM:

2 Q. So that's -- that's the way Eudoxio heard him say
3 that?

4 A. (In English) Yes. (Through interpreter) Yes.

5 Q. And was there anybody else working with you,
6 Becky, Scott and Lorena and Yvette who would have
7 heard what Scott said?

8 A. Yeah. Those are the people were present at the
9 moment, they the ones who hear -- who heard that
10 word being said.

11 Q. Do you know if Lisa Christion was nearby enough
12 to have heard him?

13 A. At the moment I didn't -- I didn't have any view
14 of Lisa around. I think she was in her office.

15 Q. Okay. So you decided you would speak to a
16 supervisor the following day; is that right?

17 A. Yeah. After work, I went to union and I report
18 it, and they told me they were going to, you
19 know, pass that incident to the supervisor. And
20 then but the next day, the supervisor call me --
21 call her into his office --

22 THE WITNESS: (In English) His office.

23 THE INTERPRETER: His office.

24 BY MS. CALEM:

25 Q. It was Russ, right?

1 A. His office and ask us what happened.

2 Q. And who in the union did you report it to?

3 A. I don't know his name. He's a Sudanese guy but I
4 don't know. He --

5 Q. Was he someone -- was he a steward?

6 A. She [sic] was a union worker office for the night
7 shift.

8 Q. Okay. But it was a Sudanese man?

9 A. Yes.

10 Q. In the union office for the night shift?

11 A. (In English without translation of question)

12 Yes.

13 Q. All right. And then the next day, Russ called
14 you into his office and started asking about what
15 had happened?

16 A. Yes.

17 Q. And what time -- do you remember what time of day
18 that was that Russ called you in?

19 A. It was a Saturday on the 20th around 1 o'clock or
20 1 --

21 THE WITNESS: No. 7.

22 THE INTERPRETER: I mean 7, not 1, sorry.

23 7 -- 7 o'clock in the morning.

24 BY MS. CALEM:

25 Q. Seven in the morning.

1 THE INTERPRETER: In the morning.

2 BY MS. CALEM:

3 Q. All right. And what do you remember about that
4 when Russ called you in? Who was there?

5 THE INTERPRETER: It was her, Lorena,
6 Yvette, Russ, Scott Gonzales [sic].

7 BY MS. CALEM:

8 Q. Scott Genzler?

9 A. Scott Genzler, Thomas Anderson.

10 THE WITNESS: Thomas Zuroff and Thomas
11 Anderson.

12 Q. Now, Tom Zuroff was the steward for
13 Department 19, right?

14 A. (In English without translation of question)

15 Yes.

16 Q. And so why was Tom Anderson in there?

17 A. (In English without translation of question)

18 I don't know who call him, because when --
19 when I came from work, they was already inside
20 and they call me but I don't know --

21 Q. Okay.

22 A. -- who called him inside.

23 Q. Okay. You don't know how he got there?

24 A. (In English without translation of question)

25 No.

1 Q. He was there when you arrived?

2 A. (In English without translation of question)

3 I was already there, yeah.

4 Q. All right. And what -- what happened in the
5 meeting? What did Russ say and what did the
6 other people say?

7 A. They -- they asked me and I started explaining
8 what happened. Then Lorena said, Sala, your
9 English is kind of little bit broken, let me go
10 ahead and explain to him what happened.

11 Q. And did Lorena explain what happened accurately?

12 A. Because I was already spoken and she elaborated
13 to what I --

14 Q. She elaborated?

15 THE INTERPRETER: -- to what I, yeah.

16 BY MS. CALEM:

17 Q. And do you remember if Russ said anything when he
18 heard what had happened?

19 A. He asked Scott Gonzales, is it true you did this,
20 and Scott Gonzales acknowledged it.

21 Q. What else did people say?

22 A. When -- when Russ say, you agree that he say
23 that, so this incident, they have to go on -- on
24 Monday to HR.

25 Q. Did Scott apologize?

1 A. The only thing he said, he said you admit that
2 you say these words, so today is Saturday and
3 Monday HR person -- personnel will be there so
4 you're going to have to bring down to HR.

5 Q. Did Russ say he would go to human resources or
6 that you should go to human resources?

7 A. He told us to go to.

8 Q. He told you to go on Monday?

9 THE INTERPRETER: Yeah, Monday.

10 BY MS. CALEM:

11 Q. And on Monday you went to human resources during
12 your break, right?

13 A. Yes.

14 Q. What time was the break?

15 A. It was at 9:05. That's when the break started.

16 Q. And before you left to go to human resources, did
17 you tell Russ or Gary, either supervisor, that
18 you were going to human resources?

19 A. Yeah. There wasn't anybody there at that time.
20 Both of them were not in the office, so since
21 they told us to go there and report it on Monday,
22 we decide to take -- to take a break time time to
23 go down there and report.

24 Q. Okay. Did you leave any note for any of the
25 supervisors saying we have gone to human

1 resources, anything like that?

2 A. No, I didn't do it since they knew I was going to
3 go report it.

4 Q. At any time before you went to report it, did you
5 tell either supervisor, I'm going to go to human
6 resources on my break?

7 A. I didn't tell any supervisor.

8 Q. Okay. And did you ask Lorena to come with you?

9 A. I didn't ask -- I didn't ask her to come over
10 there. They knew three of us that we should go
11 report that incident downstairs so we decide all
12 three of us to go. It's not like I beg or ask
13 Lorena to come with.

14 Q. You went to human resources, and what happened
15 there?

16 A. While I was in back over here, we thought it was
17 like -- it would be one- or two-minute
18 conversation, like a verbal -- verbal sort of
19 conversation, but when we arrive there, Carrie
20 handed to us a paper to write down the whole
21 thing.

22 Q. Okay. Let's take a look at that paper.

23 Can you mark that next in order, please.

24 And this would be Exhibit --

25 COURT REPORTER: 15.

1 A. (In English without translation of question)

2 It's not mine.

3 Q. All right. And I notice here under list any
4 witnesses, it says Lorena Morales, Yvette
5 Nimenya, Eudoxio and Terry. Was Terry a witness
6 to this incident?

7 A. That's why I say I didn't -- I didn't write this
8 paper because Terry, the place that he is is way
9 far away. He couldn't have heard anything or
10 seen anything on that day so that's why I say
11 this is not mine.

12 Q. All right. Well, we have a little mystery about
13 Exhibit 15, then.

14 So let's continue, then, with the chronology
15 of that day. You are in human resources and I
16 understand Russ came in. Is that true?

17 A. We -- we were in a little entrance, small
18 entrance in the personnel -- personnel area, but
19 Rusty use First-Aid entrance.

20 THE WITNESS: (In English) First-Aid.

21 A. First-Aid entrance. And then he -- he got --

22 THE WITNESS: (In English) Through to
23 office.

24 A. Through to the office and he got --

25 Who, Carrie?

1 THE WITNESS: (In English) Yes.

2 A. -- He got Carrie, and they all came toward us in
3 the personnel area and they were all looking at
4 me --

5 THE WITNESS: (In English) And yelling.

6 A. And yelling at me.

7 Q. Who was yelling?

8 A. Both Carrie and Rusty.

9 Q. Together?

10 A. Yes.

11 Q. At the same time they were yelling?

12 A. (By witness in English and Swahili).

13 Q. Okay. So Carrie --

14 COURT REPORTER: Wait, wait. I need him
15 to --

16 MS. CALEM: Oh, okay.

17 A. He said, You come here to report somebody and
18 then you left the line without anybody on it and
19 you guys came here to report somebody is the
20 reason you're here?

21 Q. And was that what Carrie said?

22 A. Yes.

23 Q. That you all left the line to report somebody?

24 A. (In English without translation of question)

25 Yeah.

1 Q. And she sounded angry?

2 A. They were angry and they said, You guys came down
3 here because to -- because of reporting, somebody
4 reporting this -- you know, reporting this
5 incident. Is that the reason you came here? You
6 left the line without anybody, with an angry
7 tone.

8 Q. With an angry tone?

9 THE INTERPRETER: Yeah.

10 BY MS. CALEM:

11 Q. What did Russ say?

12 A. That's --

13 THE WITNESS: (In English) Rusty.

14 A. -- Rusty say, I told you to forgive him.

15 Q. I told you to forgive him?

16 A. (In English) I thought. (Through interpreter) I
17 thought you forgave him.

18 Q. I thought you forgave him?

19 A. (In English without translation of question)

20 Uh-huh.

21 THE INTERPRETER: And you say?

22 THE WITNESS: No. (Speaking Swahili).

23 THE INTERPRETER: No. We haven't spoken
24 about forgiveness. That's what she replied.

25 BY MS. CALEM:

1 Q. Okay. Understand. And then when he came up --
2 when he -- on Monday when he came into the
3 personnel office, your testimony is he said, I
4 thought you forgave him?

5 A. (In English without translation of question)
6 Right.

7 Q. Okay. Did he -- when he spoke to you on Saturday
8 on the line, did he say anything about forgiving?

9 A. (In English without translation of question)
10 I can't remember.

11 Q. Okay. So Russ and Carrie said these things.
12 What happened next?

13 A. And Carrie said, You guys should get a warning,
14 because we came to report a person and then we
15 left the job.

16 Q. And at that point in time, were you late -- late
17 from getting back from your break?

18 A. It wasn't like -- it was, like, two minute before
19 break -- break -- break was over.

20 Q. How do you know it was two minutes before break
21 was over?

22 (Sotto voce discussion between witness and
23 interpreter.)

24 A. (In English) Okay. Let me explain a little.

25 THE INTERPRETER: I said it -- I thought it

1 was before -- before the break time but it was,
2 like, two minute after.

3 BY MS. CALEM:

4 Q. Two minutes after was break over?

5 THE INTERPRETER: Yeah.

6 A. (In English without translation of question)

7 Yeah. But we don't know, to me by myself,
8 because when Russ came inside and the -- and the
9 Carrie, I was already panic, you know. See the
10 way somebody cuss me out and I don't have the
11 right to come to explain to my -- my -- my
12 parents because they're like my parent. We like
13 their children. So when I came to report to my
14 parent, I got punish and somebody yell at me,
15 look at me like I'm trash, so I didn't even pay
16 attention to find out what time it was. I was
17 confused.

18 Q. That's fine. So you just weren't sure of the
19 time, but they came in and they said you were not
20 back when break was over. Is that --

21 A. (In English without translation of question).

22 Right.

23 Q. Okay.

24 A. (In English without interpreter) No, they -- no,
25 they didn't say that. They say we left the line

1 when we went to report to someone. We should not
2 left the line and go to report someone so we have
3 to be write up and, yes, we got a warning.

4 Q. Okay. And when they came in, did either of them
5 say anything about the line having been stopped
6 because the three of you did not get back from
7 break on time.

8 Let -- let her -- She can answer, I think,
9 right?

10 A. (In English without translation of question)

11 For how long was it stopped?

12 Q. I'm just asking, did they say anything, the line
13 is stopped because you didn't get back on time?

14 A. (In English) Yeah, they say that the line was
15 stopping. Because when we came back, the line
16 was running --

17 Q. Okay.

18 A. -- because have extra people in that department.
19 We have, like, you call, what, utility people and
20 extra people. So when someone is not there, they
21 can't stop the line because I'm not there. The
22 line was running. It was working.

23 Q. Okay. So at some point, they found some extra
24 people to go on the line?

25 A. (In English without translation of question)

1 Right.

2 Q. Okay. But when they came, they said the line
3 stopped?

4 A. Right.

5 Q. Okay. So it may have stopped for a little while,
6 but what your testimony is, when you got back
7 down there, it was running again?

8 A. Right.

9 Q. Okay. And how long -- Well, strike that. After
10 they came in the department and into the
11 personnel department, how long was it before you
12 went back down to the line?

13 THE INTERPRETER: Say that again.

14 BY MS. CALEM:

15 Q. When Russ and Carrie came in and were yelling, as
16 you said, how much time passed before you went
17 back down to the line?

18 A. Like I said, I was kind of upset so I'm not -- I
19 cannot tell you exactly how long it would be.

20 Q. That's fine. But you did go back to the line,
21 right?

22 A. Yes.

23 Q. And did you then get a warning from Russ?

24 A. He came and he find me in the dressing room where
25 I was dressing, putting on my work -- working

1 gear, and he said -- he came and handed me a
2 paper and he said, here's your warning, you got
3 to get a warning. And then I ask him, are you
4 giving me a warning because I'm a monkey? He
5 said, no, Lorena and Yvette already got a
6 warning, you got to get one, too.

7 Q. And do you still have that piece of paper?

8 A. I didn't accept it. I just took the paper and I
9 fold it and throw it in the garbage, throw it
10 away in the garbage. He said do whatever you
11 want. It is on record.

12 Q. Was anyone else present when Russ came to you and
13 gave you the warning?

14 A. I was -- I was by myself in the dressing, in
15 there.

16 Q. Were you told later on that the warning had been
17 removed?

18 A. I heard from someone, Lorena, I heard from Lorena
19 say, thank you, God, they erased my -- my
20 warning. So I didn't know if they erased
21 Lorena's warning only or if they erased all of
22 ours' warnings.

23 Q. When did you hear Lorena say that?

24 THE INTERPRETER: It was -- she's guessing.
25 It was maybe after two weeks.

1 THE INTERPRETER: She's asking who say
2 that?

3 BY MS. CALEM:

4 Q. I'm just asking if you heard from anybody.

5 A. Nobody ever told me such thing.

6 Q. Did anybody from the union ever tell you that
7 they had spoken to Scott Reed about the incident?

8 A. There wasn't anybody at all from union who told
9 me that because I was already spoken to Scott
10 Reed so there was no need for the -- for --
11 with union -- the union people.

12 Q. Do you remember Carrie Moate speaking to you
13 afterwards to find out if Scott had done anything
14 else like this again?

15 THE INTERPRETER: Carrie Moate?

16 MS. CALEM: (Indicating).

17 A. Yeah. He asked me if Scott Gonzales did the same
18 thing again and I told him, no, I hadn't see him
19 doing it.

20 Q. You told Carrie you have not seen him do it
21 again; is that right?

22 A. (In English) Yes. (Through interpreter) Yes.

23 Q. So Carrie's memo says that on March 4th she spoke
24 to you and you said you haven't had any issues
25 this week but you wanted to add that Gary needs

1 to be more respectful. Do you remember telling
2 Carrie that?

3 A. (In English without translation of question).

4 Yes.

5 Q. And that when a machine breaks down, he will come
6 up and push you out of way and say, Get the fuck
7 out of the way?

8 A. (In English without translation of question).

9 Yes.

10 Q. But Gary had not done that that week. Is that
11 the way Gary was as a supervisor?

12 A. (In English without translation of question)

13 Exactly.

14 Q. From the start, from when you were working with
15 him?

16 A. (In English without translation of question)

17 Yes.

18 Q. Does he do this to all -- all employees is he
19 like that?

20 A. (In English without translation of question)

21 Yes.

22 Q. Is he like that?

23 A. (In English without translation of question)

24 Yes.

25 Q. Have other employees complained about him --

1 A. (In English without translation of question)

2 Well --

3 Q. -- that you know of?

4 A. -- I know, like, Anna (sp), she tried to complain
5 but a lot of people get scared to think when they
6 go to complain, they're going to have a
7 suspending or a warning so people just walk like
8 that, like tight, or with their things on their
9 arm, they're scared to go to report because they
10 know this person they went to report, he got a
11 warning, he got a suspended. Especially me, my
12 problem everybody can't go, anyone, to HR to go
13 report because they scared. Every time I go over
14 there, I have a suspended, I have a warning.

15 Q. I'm just asking if you know of anybody who went
16 to complain about Gary.

17 A. (In English without translation of question)

18 I don't know if some people that went to
19 complain about Gary, but I saw it and I heard it
20 by myself, how he does in the department.

21 Q. And let's see. You joined Department 19 in 2014?

22 A. (In English without translation of question)

23 Right. August. I think it was in August
24 2014.

25 Q. And Gary and Russ were the two supervisors there?

1 A. (In English without translation of question)

2 Right.

3 Q. And Gary was like that with all employees?

4 A. (In English without translation of question)

5 Yes. Well, he have some favorite employees.

6 It's not all employees. He had some favorite and

7 especially woman, oh, no, to him is woof.

8 Q. He doesn't like women?

9 A. (In English without translation of question)

10 No.

11 Q. Talking back to him?

12 A. (In English without translation of question)

13 Yes.

14 Q. So is Gary the kind of person that if you argue

15 with him, he gets very angry?

16 A. (In English without translation of question)

17 And he don't like a report.

18 Q. He doesn't like to be --

19 A. (In English without translation of question)

20 To report. When someone do something wrong

21 and he don't want it to go to him and say, look

22 at this person, he do this to me, he don't like

23 that --

24 Q. He doesn't like --

25 A. -- he start at yelling you back.

1 Q. He doesn't want to be bothered with any trouble?

2 A. (In English without translation of question)

3 Yeah.

4 Q. So you think Gary's just a very bad supervisor;
5 is that right?

6 THE WITNESS: (Speaking in Swahili to
7 interpreter.)

8 Q. It's okay to say it if that's what you think.

9 A. He doesn't have respect.

10 Q. He doesn't have respect?

11 A. He does not respect.

12 THE WITNESS: (Speaking in Swahili).

13 A. He doesn't respect women.

14 Q. Have you seen -- have you spoken to any women who
15 say that Gary is not a problem for them?

16 THE INTERPRETER: Is not a problem?

17 MS. CALEM: Not a problem, they like him.

18 A. I never seen anybody say.

19 BY MS. CALEM:

20 Q. Have you seen Gary yell at men?

21 A. No, never.

22 Q. Never seen Gary yell at men?

23 A. Oh, they -- they got a little kind of verbal
24 conflict with Eudoxio.

25 Q. Is Gary the kind of person when he gives an

1 order, he just wants people to follow the order?

2 A. Gary, in my point of view, I don't think he
3 follow the company guidelines. Whatever he want
4 to be done, in his head is what he -- whatever he
5 wants done, he want that to be done like as he
6 want.

7 Q. Do you know if Carrie spoke to Lorena or Yvette
8 to ask them if things were going okay?

9 THE INTERPRETER: Gary?

10 MS. CALEM: Carrie.

11 A. I don't know that part.

12 BY MS. CALEM:

13 Q. Do you remember that Dave Hillberg attended a
14 safety meeting on March 8th to speak to the
15 department about respectful communications?

16 A. Yes.

17 Q. Do you remember what was said in the meeting?

18 A. He was speaking about inappropriate --
19 inappropriate touching of some certain behavior
20 and disrespectful at work. That's kind of --
21 that was his main theme about me.

22 Q. Was the whole department there?

23 A. Yeah. We all -- we were all required to get
24 there.

25 Q. Do you remember Scott Reed giving a talk at a

1 safety meeting in October of 2016 to talk about
2 harassment and respectful communications?

3 THE INTERPRETER: October 20 -- October
4 what?

5 MS. CALEM: October 2016.

6 A. Yes, I do.

7 BY MS. CALEM:

8 Q. Do you remember how long he spoke for?

9 A. Since I didn't have a watch, I can't tell how
10 long he spoke but he spoke.

11 Q. Did you say anything during that meeting where
12 Scott spoke, Scott Reed?

13 A. I didn't say anything.

14 Q. At the safety meeting that Dave Hillberg spoke
15 at, did you say anything at that meeting?

16 A. No, I didn't say anything.

17 Q. Before this incident with Scott Genzler, had
18 anybody at John Morrell made any racist
19 statements to you?

20 A. No.

21 Q. And after this incident with Scott Genzler, has
22 anybody made any racist statements to you?

23 A. Nobody.

24 Q. How did you decide to go to the National Labor
25 Relations Board to file a charge?

1 Q. Okay. So you've been handed what's been marked
2 as Exhibit 19, and if you look at these two
3 pages, just tell me if you see your signature on
4 there.

5 A. Yeah, there is my signature on it.

6 Q. Okay. And do you remember seeing any video on
7 sexual harassment training when you started at
8 the company?

9 A. Yes, I do.

10 Q. Did you receive any other training from the
11 company about sexual harassment?

12 A. Yeah, before we started our job, we were in this
13 orientation. It took two days. In our
14 orientation, we were given and we are told on
15 videos and images and with the speaker all we
16 were told a lot about -- about sexual harassment
17 and we were told if anybody is found guilty of
18 any of these should get fired, lose his -- his or
19 her employment -- employment.

20 Q. Was that the --

21 THE INTERPRETER: That was the beginning.

22 It took two days, she said.

23 BY MS. CALEM:

24 Q. Okay. And who said that you would get fired if
25 you were found guilty of harassment?

1 like to start talking about is the allegations in
2 the complaint that you were retaliated against
3 after you made a complaint about Scott Genzler.
4 Can you tell me how you were retaliated against?

5 A. I -- after this incident happened, we had a
6 contract [sic] of me and Juan working together.

7 COURT REPORTER: You had a what?

8 THE WITNESS: We had an incident happen
9 between me and Juan.

10 Q. Between you and Juan Ogaldez?

11 A. (In English without translation of question)

12 Yes. And I went to report -- I can say
13 actually I didn't report it to HR direct. I went
14 to Gary because -- do you want me to explain?

15 Q. Yeah, we're going to get to that. I just want,
16 the retaliation is that you were made to work
17 with him again on the same line. Is that what
18 your -- your contention is?

19 A. (In English without translation of question)

20 Yeah, because we're not supposed to work on
21 the same line --

22 Q. Okay.

23 A. -- and the same place, me and him.

24 Q. Okay. So I -- then let's go back and talk about
25 what happened with Juan in 2014. I understand

1 that you made an allegation that he pointed at
2 his penis.

3 A. (In English without translation of question)

4 Right.

5 Q. Okay. And he did that in December of 2014?

6 A. (In English without translation of question)

7 Right.

8 Q. Is that -- am I correct about that?

9 A. (In English without translation of question)

10 That's when I went down there to -- to speak
11 on December 24.

12 Q. Okay. And tell me what he did. I think it was
13 December 12th, or something like that, of 2014
14 according to the notes that I have. And it says
15 that he made a gesture, he pointed at his penis.
16 Is that what you remember?

17 A. (In English without translation of question)

18 Yeah. I remember that day. We was walk
19 together like what Yvette she said before. Juan
20 was on this side taking the net, put on the horn,
21 and I can't remember the other guy, he was
22 pushing the meat like that. And I was grab it
23 down and clipping. So when he put net and he
24 would have called me like (indicating), you know,
25 call me --

1 Q. For the record, she's making a gesture that he --

2 A. (In English without translation of question)

3 -- called me, like, come and touch my penis,

4 come and touch my penis (indicating), but he

5 didn't talk on the words words but he make a

6 sign, call me --

7 Q. Okay.

8 A. -- and grab his -- his private party [sic] like

9 this (indicating).

10 Q. So he sort of pointed at you and then he grabbed

11 his private parts?

12 A. (In English without translation of question)

13 Yeah.

14 Q. Okay. And he didn't say anything verbally, it

15 was the gesture?

16 A. (In English without translation of question)

17 Yes.

18 Q. And how many times did he do that?

19 A. (In English without translation of question)

20 It was once because -- Let me -- Sorry.

21 (Sotto voce between witness and interpreter.)

22 A. -- I told -- it was the one time. I told him you

23 are nasty and disgusting, you're not supposed to

24 work me -- with me anymore.

25 BY MS. CALEM:

1 A. (In English without translation of question)

2 Yeah. That -- when I reported him a week
3 after -- week after December 12 --

4 Q. Uh-huh.

5 A. -- I report him to Rusty and then Rusty separate
6 us. Then when -- when -- when Gary come back to
7 vacation, then things happen again.

8 Q. Okay. So Gary comes back from vacation, you're
9 working on the same line with Juan again?

10 A. (In English without translation of question)

11 No. Wasn't.

12 Q. You were not on the same line?

13 A. (In English without translation of question)

14 Yeah. I was to another line when Rusty told
15 me to clip in another line, Handy [sic] line.

16 Q. Okay. And when this happened on December 12th,
17 though, you and Juan were on different lines?

18 A. (In English without translation of question)

19 When it happened, Gary came in the morning,
20 because at that time I was open work, I wasn't
21 have assigned job. So when Gary come, he told me
22 to go to work with the Juan and I was
23 uncomfortable to work with the Juan. So I told
24 Gary, I don't want to work with the him. Rusty
25 already separate with the him. He's like, why,

1 I don't know.

2 Q. Okay. And didn't he -- do you know if he talked
3 to Yvette or anybody else?

4 A. (In English without translation of question)

5 I don't know.

6 Q. All right. So Gary called you into his office,
7 Lisa brought you there or said they want to see
8 you. What happened then?

9 A. (In English without translation of question)

10 So they started asking me what happened, and
11 I told them what happened and they suggest that
12 we had to go to personnel office. And Gary, I
13 don't know if it was Gary Reed [sic] or Gary, and
14 I'd been called from Scott Reed office for that.

15 Q. Okay. And did you go up to the personnel office
16 that same day on December 12th?

17 A. (In English without translation of question)

18 I don't really remember. I think it was --
19 I think it might be December -- December 24th.

20 Q. It was later when Gary came back from vacation?

21 A. (In English without translation of question)

22 Yeah.

23 Q. So the day that you first told Gary, look, this
24 just happened, did you go to personnel that same
25 day?

1 A. (In English without translation of question)

2 And Scott Reed and the Juan and Carrie, I
3 think, and David.

4 Q. David Hillberg?

5 A. (In English without translation of question)

6 Uh-huh.

7 Q. Okay. Yeah. So there's, looks like from the
8 notes anyway, that there were a couple of
9 meetings and they talked to you, to Juan, to
10 Yvette, to Kamesu. Kamesu?

11 A. (In English without translation of question).

12 Uh-huh.

13 Q. To Amott (sp)?

14 A. (In English without translation of question)

15 Yes.

16 Q. To Lorena?

17 A. (In English without translation of question)

18 As far as Lorena, she wasn't there. That's
19 Gary witness, because Lorena whole line is the
20 next wall. And that happened and Lorena, she
21 wasn't there.

22 Q. Okay.

23 A. (In English without translation of question)

24 Yeah. She wasn't there.

25 Q. All right. And so Gary conducted some

1 interviews, and then Carrie from human resources
2 with someone from the union, and you told your
3 story and you said you were upset at what Gary
4 told you because it made you look guilty. Do you
5 remember telling them that?

6 A. (In English without translation of question)

7 Yes.

8 Q. And they asked you, did anyone see Juan point at
9 himself and you say no, it was just me and him?

10 A. (In English without translation of question)

11 Yes.

12 Q. And that's true. And then you say that Juan
13 pushed water on you and that Kame -- Kame --
14 Kamesu saw that?

15 A. (In English without translation of question)

16 Yeah. That's why she said, why you doing
17 this to her, and she said -- he said I don't
18 care.

19 Q. Okay. And in the interview notes, I think she
20 told human resource, according to the notes, she
21 didn't see him push water on you. And Juan said
22 he was just making gestures to keep the line
23 going to make things move along. Could he have
24 been making a gesture like that, like hurry?

25 A. (In English without translation of question)

1 I don't know.

2 Q. So there -- all this investigation happened and
3 then there was a meeting that the notes, anyway,
4 say there was a meeting with you and Ian Strum --

5 A. Okay.

6 Q. -- and Juan and Dave Hillberg and went over the
7 whole situation. And there was a talk about, you
8 know, you have to behave appropriately, everybody
9 has to act respectfully. And are you saying
10 there was an agreement that you and Juan would
11 never have to work together again?

12 A. (In English without translation of question)

13 Scott Reed, he said that we going to
14 separate you. From now, you can't work the same
15 line again.

16 Q. So you're saying Scott Reed said we're nev -- you
17 guys are going to work on different lines and you
18 never work together again?

19 A. (In English without translation of question)

20 Him and a union representative.

21 Q. Did anybody write this down?

22 A. (In English without translation of question)

23 I don't know. I wasn't have a pen. They,
24 they always have a pen and I never have any copy
25 from personnel office or anything.

1 Q. At that point in time, did Scott offer you to
2 move to another department?

3 A. I'm sorry, excuse me.

4 (Sotto voce discussion between witness and
5 interpreter.)

6 THE INTERPRETER: She's feeling bad about me
7 not speaking. I'm, like, it's okay.

8 BY MS. CALEM:

9 Q. No, it's okay. I think we're working fine. I
10 understand you, and if we need some help, we have
11 Elias here.

12 THE INTERPRETER: What was the question
13 again?

14 BY MS. CALEM:

15 Q. The question is at that time, did Scott Reed
16 offer that you go to into another department?

17 A. He asked me if I want to switch, go to a
18 different department on the 20. I told him, no,
19 I love my department. I will stay there and I
20 love my job there.

21 BY MS. CALEM:

22 Q. Okay. So there's nothing that I see in the notes
23 that say that you're supposed to always work
24 separately from Juan, and you're saying that
25 Scott Reed told you that?

1 A. (In English without translation of question)

2 Yes.

3 Q. And who else was present when he said that?

4 A. (In English without translation of question)

5 Strum.

6 Q. Ian Strum?

7 A. (In English without translation of question)

8 Yes.

9 Q. Anybody else?

10 A. (In English without translation of question)

11 Juan, David, like, where we was in the

12 office.

13 Q. Okay. Juan, David, Ian, Scott, Sala. Was Carrie
14 Moate there?

15 A. (In English without translation of question)

16 Yes.

17 Q. Okay. Because the notes from human resources say
18 we reviewed the following expectations with both
19 employees. Expect all employees to treat each
20 other with respect. They need to work together
21 to get the job done. If concerns arise, they
22 need to immediately bring the concern to their
23 lead or supervisor. Do you remember that being
24 said at the meeting?

25 A. (In English without translation of question)

1 The thing he told me, he said you have to go
2 back to work, but if you all bring another issues
3 between you two, I am going to fire both of you.
4 That's what he said.

5 Q. Scott Reed said that?

6 A. (In English without translation of question)

7 Yes. He told me that.

8 Q. In this same meeting?

9 A. (In English without translation of question)

10 Yes.

11 Q. Okay. You didn't mention that before. So what
12 my question was, do you remember the -- anybody
13 saying at that meeting the two of you need to
14 work together to get the job done?

15 A. (In English without translation of question)

16 No.

17 Q. Do you remember Juan saying that he did not want
18 to work with you now, he was concerned about
19 working with you?

20 A. (In English without translation of question)

21 He said he don't want to work with me.

22 Q. Juan said that?

23 A. (In English without translation of question)

24 Yeah, he don't want to work with me again.

25 Q. And do you remember Scott saying to him, look,

1 you need to move on?

2 A. (In English without translation of question)

3 I don't -- I'm not remember that.

4 Q. So when you left that meeting, you thought you
5 were never supposed to be on the same line with
6 Juan again?

7 A. (In English without translation of question)

8 Exactly. And everybody in that department,
9 they know that. Even Gary when -- and Lisa, when
10 they say that, I'm close to net place, they will
11 make me embarrassed and kick me out of there.
12 They told me, you're not supposed to be -- you're
13 not supposed to put even your feet in this area.
14 Over there, that's your area. You can't come
15 here. Everyone know that.

16 Q. Which area did they say you could not go in?

17 A. (In English without translation of question).

18 Great Bend line.

19 Q. Great Bend line?

20 A. (In English without translation of question).

21 Yeah.

22 Q. Okay. And after this incident in 2014, did Juan
23 ever do anything like that again?

24 A. (In English without translation of question)

25 No. We wasn't talk each other. He was

1 himself and I myself. No hi's, no nothing.

2 Q. So no other touching, no other gestures, nothing?

3 A. (In English without translation of question).

4 No.

5 Q. Okay. And to be clear, Scott [sic] did not touch

6 you or say anything to you verbally. He made the

7 gesture; is that right?

8 A. (In English without translation of question).

9 Yes. Scott or Juan?

10 Q. I'm sorry, Juan. I'm getting the people

11 confused. Sorry.

12 A. (In English without translation of question)

13 That's all right.

14 Excuse me, can I ask you a question?

15 Q. Nope.

16 A. (In English without translation).

17 Let me say something. Because you say in

18 the -- that -- during that meeting, nobody said

19 we're not supposed to work each other, nobody

20 have that testimony. I can show that testimony I

21 have about myself.

22 Q. What do you mean?

23 A. (In English without translation of question)

24 I mean, I have a recording when I went to

25 unit when April 4, in April 4, 2014, when Scott

1 Q. Okay. How long were you speaking to Ian for when
2 you made the recording?

3 A. (In English without translation of question)

4 I never watch what time after work.

5 Q. Just estimate. Half hour, an hour, ten minutes?

6 A. (In English without translation of question)

7 Maybe 20, I guess. I don't know what time
8 it was.

9 Q. Okay. All right. And what happened after that,
10 after Ian told you this? Did you go back and
11 talk to Scott or anybody?

12 A. (In English without translation of question)

13 How I'm supposed to talk to Scott? Scott,
14 he sent David in the office and called me in the
15 office, tell me, Sala, no matter what, Scott has
16 decided you have to work with the Juan, you don't
17 have a choice.

18 Q. Okay. And then in April, who assigned you to
19 work on the same line as Juan?

20 A. (In English without translation of question)

21 Who?

22 Q. Yeah. The day that you had to work with him,
23 that, you know, you said I'm not supposed to work
24 with him, who assigned you to work with Juan?

25 A. (In English without translation of question)

1 Gary.

2 Q. On the Great Bend line?

3 A. (In English without translation of question)

4 No. On the Honey line.

5 COURT REPORTER: Say the line again.

6 THE WITNESS: Honey line.

7 MS. CALEM: Honey line.

8 BY MS. CALEM:

9 Q. Okay. And did you go work on the Honey line with
10 him?

11 A. (In English without translation of question)

12 I mean, yeah.

13 (Sotto voce discussion between witness and
14 interpreter.)

15 A. They switching. They took him off on his job,
16 regular job, and they brought him to me where I
17 was and they put someone else on his place, on
18 his lane.

19 BY MS. CALEM:

20 Q. On this day in April, April 4th?

21 A. That was March 2nd.

22 Q. This in March 2nd, 2016?

23 A. (In English without translation of question)

24 Yep.

25 Q. Now, isn't it true that you had worked on the

1 same line with Juan before March 2nd, 2016?

2 A. (In English without translation of question)

3 Yes.

4 Q. Okay. So you'd worked with him several times

5 already, right?

6 A. That's why -- that's why I complain about it

7 because I was told not to work anymore with Juan,

8 but he was there so it got me uncomfortable and I

9 decided to complain about it.

10 Q. Okay. How many times before March 2nd had you

11 worked on the same line with Juan?

12 A. Like, three times.

13 Q. And when was the first time that you worked with

14 him on the same line in 2016?

15 A. In January and --

16 THE WITNESS: No. Hold on.

17 (Sotto voce discussion between witness and

18 interpreter.)

19 A. February.

20 Q. In February?

21 A. (In English without translation of question).

22 Uh-Huh. March --

23 (Sotto voce discussion between witness and

24 interpreter.)

25 A. It was February and March.

1 department, he's going to fire us, we didn't have
2 any issue.

3 Q. And you don't remember the specific date in
4 February that you were first told to work with
5 Juan again, do you?

6 THE WITNESS: February 2017?

7 THE INTERPRETER: Yeah, that's correct.

8 (Sotto voce discussion between witness and
9 interpreter.)

10 She's saying that in January that's when
11 Rusty --

12 THE WITNESS: Let me help him a little bit,
13 I'm sorry.

14 After this happened between me and Gonzales,
15 after this happened, I didn't know what happened
16 to the offices, I don't know what they said, and
17 I see they started sending me to -- to work with
18 the Juan and that's my reason I call the union,
19 BJ, and tell BJ, and think BJ, he came in the
20 office. That time we have another meeting, me
21 and Scott Reed and BJ, and Scott Reed started
22 telling BJ that I don't have a witness, and BJ
23 told him, I think I see paper here that says she
24 have two witness that say everything. And he
25 said, no, nobody said anything, just only -- but

1 he said this woman here, means Yvette, she said
2 he make a statement, too, to her, means that he's
3 the one, he does. So Scott really tried to, you
4 know, to say nothing happened, nobody agree,
5 everybody was disagreeing so. And he -- and
6 Scott -- BJ said, no, this thing happened because
7 this person was Strum, he was here, it wasn't me,
8 and I can read the paper, I can read the paper.

9 So I'm thinking like Ian Strum's writing --

10 COURT REPORTER: The what? The what?

11 MS. CALEM: Strum.

12 COUR REPORTER: Ian Strum's writing?

13 THE WITNESS: Right.

14 I think the difference was Scott Reed is
15 writing, because when BJ saw on the paper the way
16 Scott Reed was talking, it was like kind of
17 different. Scott Reed was, like -- BJ was, like,
18 I'm reading on the paper right here.

19 BY MS. CALEM:

20 Q. Okay. Well, I know that during one of the
21 meetings in 2014, they reviewed the notes -- or
22 rather in 2016, they reviewed the notes from
23 2014, and I thought BJ agreed, man, there's
24 nothing in writing that says they're supposed to
25 be separate.

1 THE WITNESS: (Speaking Swahili to
2 interpreter.)

3 THE INTERPRETER: Did BJ say that? She's
4 asking.

5 BY MS. CALEM:

6 Q. Yes. I'm asking if you remember, because the
7 notes say that BJ agreed, no, we don't have
8 anything in writing.

9 A. (In English without interpretation of question)

10 No. It was because BJ -- when Scott Reed
11 said I don't have a witnesses, BJ told Scott Reed
12 that this woman have wit -- it looks like she has
13 witnesses, and according to the paper Strum --
14 Strum -- Strum wrote, She has witnesses.

15 Q. Okay. Well, do you have anything that Ian Strum
16 wrote that says that you're never supposed to
17 work with Juan again?

18 A. I don't have anything else except that record.

19 Q. So you had to work with Juan again. Did he ever
20 make any other gestures to you?

21 A. The only thing that he showed was he was kind of
22 proud -- proud of it because they -- I wanted not
23 to work with him and, but they put us back
24 together so he -- he had that kind of manhood in
25 him, like I am the one, you are nothing

1 (indicating).

2 Q. So you felt that was his attitude?

3 A. Yeah, that was -- that's how I felt. And even
4 his body language it shows that.

5 Q. Well, how did it show that?

6 THE INTERPRETER: She make hand gesture like
7 try to signal somebody and show her that she is
8 down like that (indicating).

9 BY MS. CALEM:

10 Q. I thought Juan didn't want to work with you?

11 A. They force him to come to work with me so I can
12 get upset and quit the job and go home.

13 Q. Well, did anybody tell you that or that's just
14 your opinion?

15 A. That's how it is because if you look at it, why
16 would -- why would they do that? Why would this
17 case and me and Scott Gonzales?

18 Q. All right. Did anybody ever tell you, oh,
19 they're forcing you to work with Juan because
20 they want you to?

21 A. What is the whole point of me working with Juan?
22 Juan -- why Juan do not want to work with him and
23 I don't want to work with him, what is the whole
24 concept?

25 Q. My question to you was, did anybody tell you that

1 her go slowly because I did not catch everything.

2 (Witness speaking in Swahili.)

3 A. On the day that I picked -- that I picked the job
4 to do was on Monday, but I don't remember the
5 day. It was at the Hand line, and because -- he
6 said that because of my -- since I have the
7 seniority, I am able to pick where -- where I
8 should work.

9 Q. Okay. Let's just go back to the issue of Juan.

10 Okay. So although you had to work with him, he
11 didn't touch you, did he?

12 A. When I was working with him on the Hand line, we
13 were too close to the point when he opened his
14 socks and I -- I --

15 THE WITNESS: (In English) Pick up the hams
16 to clip.

17 A. -- and I pick up the hams to clip, we would touch
18 each other.

19 Q. All right. You would bump elbows?

20 A. Yes.

21 Q. He didn't make any more sexual gestures, did he?

22 A. No. He didn't -- he didn't have any -- he didn't
23 do any sexual gesture, but the only thing he did
24 was those hand signs I shown like he signalled
25 people and showed them that I am like

1 (indicating).

2 Q. He made a thumbs-down sign?

3 A. And that make me -- that make my heart beat

4 faster to the point where I went to hospital for

5 high blood pressure.

6 Q. Because he made a thumbs-down sign towards you?

7 A. Because he was signalling to people who are in

8 different lane, like on different side, and he

9 just, you know, signal like that (indicating) and

10 show them that I...

11 Q. That he would signal to other people, point at

12 you, and then make a thumbs-down sign?

13 A. Yeah. Yeah. That's how I -- and, yes, that's

14 what he did and then I felt like I'm -- I'm

15 nothing, I'm trash in that department.

16 Q. Okay. Is that why you took out a protective

17 order against Juan?

18 A. Yes.

19 Q. And you went to court and you asked that Juan be

20 kept 100 miles away from you?

21 A. I asked them not to be close with him but I did

22 not suggest how many miles away, miles to him.

23 MS. CALEM: I need to mark this next in

24 order.

25 (Naambwe Deposition Exhibit 20 marked.)

1 Q. If you'd take a look at Exhibit 20 and tell me if
2 you recognize this.

3 A. I know I went to ask for this restriction order.

4 Q. Did anybody accompany you when you went to court
5 to get this?

6 A. No.

7 Q. And then on the second to the last page --

8 Do you want to take a break?

9 THE INTERPRETER: (Translating.)

10 THE WITNESS: (No response.)

11 MS. CALEM: Let's take a break.

12 MS. POCHOP: Sala, you got to take off your
13 microphone.

14 THE VIDEOGRAPHER: Okay. We're going --

15 we're going off the record now. It's 2:15.

16 (A recess was taken at this time.)

17 VIDEOGRAPHER: Okay. We're back on the

18 record. It's now 2:23 p.m.

19 BY MS. CALEM:

20 Q. All right. We're back on the record. We were
21 talking about Exhibit 20, which is the protective
22 order. And if you could look at the next to last
23 page of this exhibit.

24 THE INTERPRETER: To last page, right?

25 MS. CALEM: Says page 3 at the bottom. It's

1 the second to the last page of the exhibit.

2 A. (Complies.)

3 BY MS. CALEM:

4 Q. All right. This shows that you asked the Court,
5 says request for hearing and protection order,
6 asked the Court for a period of five years to
7 order that Juan not come within 100 miles of you.
8 Do you see that?

9 A. Yes, I do.

10 Q. And you made this request on that date?

11 A. Yes.

12 Q. All right. And I -- I apologize if you answered
13 this already. Did anyone come with you to court
14 when you did this?

15 A. I went there -- I went there by myself.

16 Q. All right. And after that, Juan didn't come to
17 work anymore, did he?

18 A. He -- he came and then for --

19 THE WITNESS: (In English) The next day he
20 came.

21 A. -- the next day he came.

22 THE WITNESS: (In English) Uh-uh.
23 (Speaking Swahili).

24 A. The next day he didn't come, sorry. And then
25 after that, the following day he showed up.

1 THE WITNESS: (Speaking Swahili).

2 A. That was Monday and then Tuesday he never showed
3 up.

4 THE WITNESS: (Speaking Swahili).

5 A. I -- I heard that since he missed the second day,
6 HR called him and told him that he didn't call,
7 he didn't show up, and he -- for that reason, he
8 got fired. That's what I heard.

9 Q. How was he supposed to come to work if you had a
10 protective order saying he wasn't supposed to
11 come within 100 miles of you?

12 A. So from --

13 (Sotto voce discussion between witness and
14 interpreter.)

15 A. From Honey line to Great Bend line, what's the
16 distance that is in between? How many feet is
17 that?

18 Q. My question to you is -- Well, let's just strike
19 that. I'm not going to argue with you about it.
20 Did you hear from anyone that Juan was afraid to
21 come into work because of this protective order?

22 A. No. I never heard anything.

23 Q. If Juan was afraid to come into work because of
24 this protective order and lost his job --

25 Go ahead.

1 THE INTERPRETER: (Interpreting).

2 Q. -- do you think that that is a fair result?

3 A. If they had had a job for him, my question is, do
4 the company do not have 100 feet?

5 THE WITNESS: (In English) They have 100
6 feet only, that whole company?

7 Q. This is 100 miles?

8 A. (In English without translation of question).

9 No. Maybe that was a mistake for my writing
10 English, but, no, I can't say mileage. How?

11 (Lisa Marso entered the room.)

12 Q. Can you look at page -- the same page again, next
13 to the last page.

14 (Translation in progress.)

15 Q. It says 100 miles, right?

16 A. I shouldn't -- I shouldn't do it like having him
17 losing his job writing, like, 100 miles. I
18 mean -- meant to write 100 feet, not 100 miles.
19 It says mileage but it was the English problem.

20 Q. Well, do you remember telling one of your doctors
21 that the man who was harassing you was fired for
22 sexual assault?

23 A. Yeah. I told the doctor because there was one
24 lady who Juan wanted to go out with, and the
25 woman did not like it so that's what I heard from

1 the office. That's why --

2 THE WITNESS: (In English) And then she went
3 to complain.

4 A. And she went to complain.

5 Q. All right. Well, on April 26, 2017, you told
6 your doctor the man that was bothering you at
7 work has been fired for sexual assault so you
8 have much less stress in the workplace since he's
9 gone and this has helped you. Do you remember
10 making that statement?

11 A. Yes. I did say that because of his behavior of
12 him approaching me and touch me. Because of it,
13 yes, I said it.

14 Q. Because of what?

15 THE INTERPRETER: (Clarifying) Because of
16 his behavior, his -- his -- his conduct on me so
17 I told my doctor --

18 BY MS. CALEM:

19 Q. Juan --

20 THE INTERPRETER: -- I made that statement.

21 BY MS. CALEM:

22 Q. Okay. But Juan was not fired for sexual assault,
23 was he?

24 A. That's a secret between the office and Juan, but
25 the people working in the office, sometime they

1 talk and if people listen and if people hear it.

2 Q. Well, just a little while ago you said that you
3 heard that Juan didn't show up and he was fired
4 because he didn't show up for work. That's
5 right, right?

6 A. That -- that was the talk. That's what people
7 were saying.

8 Q. So when you made the statement that Juan got
9 fired for sexual assault, you don't really know
10 why he got fired, do you?

11 A. I say what I heard.

12 Q. On March 17, 2017, do you remember telling your
13 doctor that there is a man at work who sexually
14 assaults you regularly but no one will do
15 anything about it?

16 A. I told my doctor there is a man who does -- does
17 sexual behavior on me -- sexual harassment on me.
18 When he's near to me, I don't feel comfortable.
19 That's why he's causing my -- my health issues.

20 Q. But did you tell your doctor -- Well, strike
21 that. In March of 2017, Juan was not sexually
22 assaulting you, was he?

23 A. I already said that he only did it once.

24 Q. On March 3rd, you told the doctor that yesterday
25 a coworker tried to coerce you into touching his

1 genitals and stabbed you with something in the
2 back after you refused. Do you remember saying
3 that?

4 THE WITNESS: (Speaking Swahili to
5 interpreter.)

6 THE INTERPRETER: She -- she heard your
7 question so she want me to translate.

8 A. I told my doctor this. If this person who sexual
9 assault me, if he comes near me, I feel like
10 electricity is rushing in my body. Yes, I told
11 him that if I feel like if he has gun on him, he
12 might shoot me and nobody will see it or nobody
13 will know how I died. Yes, I say -- I made that
14 comment.

15 BY MS. CALEM:

16 Q. Juan did not stab you in the back, did he?

17 A. That's -- that's how I felt. It was
18 uncomfortable but he didn't do it.

19 Q. But he did not actually stab you?

20 A. No, he didn't do it.

21 Q. Did you tell your doctors that you thought some
22 people from work would come after you and kill
23 you?

24 A. There was the hush environment that was created
25 after the incident between me and Scott Gonzales,

1 so even until today that beef, like so --

2 Like how do I say?

3 THE WITNESS: (Speaking Swahili).

4 A. Until today that beef, like so not -- dislike of
5 her still out there in that area.

6 Q. So you believe people dislike you because of the
7 incident with Scott Genzler?

8 A. Yeah, that's what I'm assuming because I haven't
9 done anything to him. Why would they hate me?

10 Q. So you've told your doctors you're afraid people
11 are going to come kill you from work?

12 A. Yes, I did.

13 Q. Did you tell your doctor that you think there's a
14 man at work that's placing witchcraft spells on
15 you?

16 A. There was one time when Juan was standing behind
17 me, wanted to touch me, and I felt like --

18 THE WITNESS: (In English) No. (Speaking
19 Swahili to interpreter).

20 A. He was standing behind me --

21 THE WITNESS: (In English) Yeah.

22 A. -- and I felt like electricity shock my body and
23 I thought maybe he was doing some witchcraft
24 thing.

25 Q. All right. So we've established that one of the

1 ways you believe you were retaliated against was
2 by being made to work with Juan. Is there any
3 other way you think you were retaliated against?

4 A. There is another incident that happened on
5 March 2nd after the humiliation --

6 MS. CALEM: Humiliation.

7 A. -- and my -- my kid got sick.

8 (Sotto voce discussion between witness and
9 interpreter.)

10 A. There regular -- like the regulation, there is a
11 number that was given. There's a number on the
12 ID. So there's a emergency -- if a child -- if a
13 child -- or if there is some emergency happening
14 at home, they're supposed to call the number and
15 they're called personnel office and pass the
16 message so the personnel might call on the floor
17 and they notify the person who is -- who is
18 wanted to go, if there's a child, to go back home
19 and take the child to the hospital.

20 On this day since this thing happened,
21 Maggie called me so that I can take my child to
22 hospital --

23 COURT REPORTER: Say that again.

24 A. Maggie called personnel office, personnel office
25 to notify me that the child is sick. They told

1 Maggie, no, we can't do that. Because that's how
2 normally Maggie would do it, before she would do
3 it. She would just call personnel and personnel
4 would notify me and they will send me home to
5 take the child to the hospital. But on that day,
6 they told her, no, you're supposed to call her.
7 And after that, Maggie had to -- she had no
8 choice. She took the -- the child to hospital
9 and I find out everything after I get off work.

10 And then on the other days, I would see
11 people leaving on the line and they were just,
12 when I ask them, I'll ask them, where are you
13 going? They were telling me that their child is
14 sick, they got to take their child to the doctor.
15 And then I started thinking, why do they do this
16 to them but I never get -- they didn't -- they
17 didn't do that to me. I -- I felt like they took
18 away my right.

19 Q. All right. So this is March 2, 2017, when Maggie
20 tried to call you?

21 A. Yes.

22 Q. And which child was sick?

23 A. Yaniki.

24 Q. And did you have your phone on you that day?

25 A. I didn't have the phone on me because the rule is

1 you got to leave your phone in the locker.

2 Q. Well, you have your phone with you to take
3 pictures, don't you?

4 A. I started doing it because Ruby told me to take
5 picture and then I -- it wasn't me -- I'm not the
6 only one who carried the phone with me on the
7 line. Seems like everybody has that --

8 THE WITNESS: (Speaking in Swahili and
9 English.)

10 A. And there was somebody who had an iPod --

11 MS. CALEM: I under -- yeah, I understood --

12 COURT REPORTER: Well, I didn't. I --

13 Go ahead.

14 A. There was somebody who had an iPod with him and
15 he took picture of me and then nothing happened
16 to him, so because of it, I decided to carry the
17 phone.

18 Q. All right. Now, on this day March 2, 2017,
19 Maggie told you that the personnel office said,
20 no, we can't deliver the message?

21 A. (In English without translation of question)

22 Yes.

23 Q. All right. And did you speak to anyone in the
24 personnel office about that?

25 A. (In English without translation of question)

1 I'm not supposed to speak to anybody because
2 that's their position --

3 Q. My question is, did you go to the personnel
4 office and ask about it?

5 A. (In English without translation of question)
6 No.

7 Q. All right. And you said you saw other people
8 leaving and they said their child is sick?

9 A. (In English without translation of question)
10 Yes.

11 Q. Tell me which people you saw leaving and when it
12 happened.

13 A. (In English without translation of question)
14 Employees.

15 Q. Which ones?

16 A. (In English without translation of question)
17 I don't have to say their names.

18 MS. POCHOP: Yes, you do.

19 THE WITNESS: Do I?

20 MS. POCHOP: Yep.

21 A. I can say they are womans.

22 Q. I'd like to know the names and when this
23 happened.

24 A. (In English without translation of question)
25 The names and when this happened?

1 Q. Yeah. When did it happen that you saw them
2 leaving and they said their child was sick?

3 A. (In English without translation of question).

4 I think it -- someday it was Elda. I don't
5 know, think Kamesu, I guess, but I can't tell you
6 which date or which day. And if I'm lying, you
7 can go to ask Thomas Zuroff because I went to ask
8 him. I said, Tom, why they treating me like
9 this? Some people, they can be called to go to
10 help their own children, but me, they have to
11 say -- my daughter, she had to reach me by -- by
12 herself. What is that? And Thomas said, I don't
13 know why and I don't know when they change this
14 rules.

15 Q. Okay. Was there a change in the policy about how
16 people are notified?

17 A. (In English without translation of question)

18 I don't know. I don't know. Even Thomas,
19 he don't know.

20 Q. All right. And which employee did you see
21 leaving because their child was sick?

22 A. (In English without translation of question)

23 I guess it was Kamesu or Elda -- and Elda.
24 Kamesu and Elda, I think. The thing is -- the
25 things I keep in my mind, it was like they

1 couldn't give me my right and they gave other
2 people right, so I didn't care to know to keep
3 name on people, which name or whatever, but I saw
4 it and I hear it. So I ask, where she going?
5 Oh, her son -- I don't know, her son or daughter
6 or child is sick, she had to leave.

7 Q. Okay. So somebody told you that?

8 A. (In English without translation of question)

9 Yeah. And I saw it --

10 Q. And you say it --

11 A. -- because I ask where she going, and you can see
12 Lisa call someone that needs you in the office
13 and will go talk over there and she would be
14 gone.

15 Q. All right. Now, on this occasion that you saw
16 Kamesu leave, how many times did you see her
17 leave because her child was sick?

18 A. (In English without translation of question).

19 Well, I don't know how many times her child
20 was sick.

21 Q. No. How many times did you see --

22 A. (In English without translation of question)

23 I don't know.

24 Q. -- her leave?

25 A. (In English without translation of question).

1 I don't know.

2 Q. You don't know?

3 A. (In English without translation of question)

4 No.

5 Q. And how many times did you see Elda leave because
6 her child was sick?

7 A. (In English without translation of question)

8 I don't know.

9 Q. And do you know how Kamesu was notified that her
10 child was sick on the occasions that she left?

11 A. (In English without translation of question)

12 That one is not my business. I don't know
13 that.

14 Q. And do you know how Elda was notified that --

15 A. (In English without translation of question)

16 I don't know that --

17 Q. -- her child was sick?

18 A. -- but I see because we walk all together. When
19 one person is left, you have to know that person
20 is not there and you have to ask. Oh, she got an
21 emergency call, and you know somebody got an
22 emergency call.

23 Q. Okay. But nobody told you that they got an
24 emergency call, did they?

25 A. (In English without translation of question)

1 They do -- when I ask it, they tell me she
2 got an emergency call or sometime we would see
3 Lisa, she bring a note or number, go call this
4 number, and we'll ask. Oh, she got emergency
5 call.

6 Q. But when did this happen?

7 A. (In English without translation of question)

8 After mediation.

9 Q. After the mediation Kamesu got an emergency call
10 and left because her child was sick?

11 A. (In English without translation of question)

12 Yes, they got a call because they was --
13 their children was sick. I told you, I can't
14 remember which name and -- but I know my mind
15 tell me it might be Kamesu and Elda. That's what
16 my mind is telling me.

17 Q. And were you present when they were told their
18 child was sick?

19 A. (In English without translation of question)

20 I was told emergency.

21 Q. You were told that they had an emergency?

22 A. (In English without translation of question)

23 Uh-huh.

24 Q. And who told you they had an emergency?

25 A. (In English without translation of question)

1 Other employees.

2 Q. Which ones?

3 A. (In English without translation of question)

4 Which ones? Analem (sp).

5 Q. Analem told you?

6 A. (In English without translation of question)

7 Yeah.

8 Q. Okay. So Analem told you Kamesu got a call, she
9 had to go home because her child was sick?

10 A. (In English without translation of question)

11 I told you I can't -- I'm not for sure if it
12 was Kamesu and Elda, but I knew somebody was
13 called after mediation that he got an emergency
14 home, or she.

15 Q. All right. And Analem told you about this?

16 A. (In English without translation of question)

17 Yeah. It's not -- We can see -- we can see
18 in our eyes when Lisa, she came with the note,
19 you have to go call this number, you have an
20 emergency at home.

21 Q. And other than that one occasion where your
22 Maggie said they would not deliver a message to
23 you, did Maggie tell you who she spoke to in
24 personnel?

25 THE INTERPRETER: Repeat that question,

1 please.

2 BY MS. CALEM:

3 Q. Did Maggie tell you who she spoke to in
4 personnel?

5 A. I don't remember the name exactly, but it started
6 with K, KK, something like that. I tried to save
7 the number on the old phone but the phone was --
8 the phone has got screwed.

9 THE WITNESS: (In English) Messed up.

10 A. It's kind of messed up so I don't have the number
11 but I save on my other phone.

12 Q. You saved it on your own phone?

13 THE INTERPRETER: The old one.

14 BY MS. CALEM:

15 Q. The old one, okay.

16 A. (In English, without interpretation)

17 I was going to save it but my phone got
18 messed up. The day I got suspended three days, I
19 was -- my mind was going crazy and, I don't know,
20 I was in the bathroom. When I come out, my phone
21 was deep inside the bathroom so it messed up
22 and....

23 Q. All right. Was there any other occasion on which
24 your children were sick and you did not get
25 notification?

1 A. They haven't called -- it hadn't happened yet.

2 They haven't (inaudible) --

3 COURT REPORTER: They haven't what?

4 THE INTERPRETER: They haven't called.

5 BY MS. CALEM:

6 Q. And on that occasion when you found out that your
7 child had gone to the hospital, was the child
8 admitted to the hospital?

9 A. She took her to the clinic but they couldn't hurt
10 [sic] because Maggie is not a parent of the
11 child.

12 Q. So when you came -- when you finished with work,
13 did you have to take your child to the doctor?

14 A. I went to the pharmacy and get some meds and give
15 to her.

16 Q. Is there any other example of how you believe you
17 were retaliated against?

18 A. There was -- it was somewhere in August, between
19 the 23rd and 28th, one time they gave me eight
20 vats --

21 Q. Eight vats?

22 A. -- eight vats --

23 THE WITNESS: (In English) Of Arby's.

24 A. -- of Arby's to do it by myself. And I tried to
25 seek help and they refuse to -- no to anyone who

1 wanted to help and they told them I do not need
2 help.

3 COURT REPORTER: Okay. You say eight vats
4 of?

5 THE WITNESS: (In English) Arby's.

6 MS. CALEM: Do you mean ribs?

7 THE WITNESS: (In English) No. Arby's.

8 MS. CALEM: Arby's?

9 THE WITNESS: (In English) In some -- some
10 production is big like this, so you have to take
11 one and by one (indicating), put on the table,
12 but usually it must do two people because it
13 heavy meat with a small hook and a long hook, so
14 you have to be dig inside and put on the table so
15 they always put the one this side and other this
16 side. But that day, people that was leaving go
17 home, Honey line, they was already finished. And
18 I ask help. They say, no, you don't need the
19 help. And people, they want to say to make hours
20 to work, even her (indicating), she ask, I can
21 stay? Lisa, she said, no, you don't have to
22 stay. She fine and she can do by herself.

23 And I ask Thomas Zuroff. He said, well, she
24 said we can't -- we can't do anything, we have to
25 go home. So I'm left there by myself and work

1 eight vats by myself.

2 Q. All right. And this -- is this Lisa who assigned
3 you to this work?

4 A. (In English without translation of question)

5 Right. That was with Gary.

6 Q. Okay. And you filed a grievance over this,
7 right?

8 A. (In English without translation of question)

9 Right.

10 MS. CALEM: All right. So let's make that
11 grievance an exhibit.

12 (Naambwe Deposition Exhibit 21 marked.)

13 Q. Okay. So I think the day that that happened was
14 August 22 or 23.

15 A. On the 22nd is the day that I was being left --
16 left alone working by myself, and then on the
17 23rd, the same thing happened because there
18 were --

19 Two people, right?

20 THE WITNESS: (In English) Yeah.

21 A. -- there were two people working on five vats,
22 and I had to call BJ to come witness with his own
23 eyes what -- what's going on.

24 Q. So on the 22nd you were on your own. On the 23rd
25 there were a lot of people working?

1 A. Two people on the vats.

2 Q. Okay. And are the vats of Arby's meat, is that
3 something that's done every day?

4 THE INTERPRETER: She said in the slow time
5 like this, we do -- we do -- we do work on
6 these -- on these --

7 THE WITNESS: (In English) Arby's.

8 A. -- Arby's and the ribs, like, for a month or
9 weeks working on them --

10 (Sotto voce discussion between witness and
11 interpreter.)

12 A. -- and on the busy time, we don't see them, they
13 just disappear.

14 BY MS. CALEM:

15 Q. All right. And sometimes it's busy and the lines
16 are running and there's also Arby's work to do,
17 right?

18 A. Yeah. We seen they Arby's when we slow. Like
19 the time, you know, when we don't have -- when
20 the --

21 I don't know what she means.

22 -- when there is not a whole lot of work so
23 they send the Arby's and then other times they
24 disappear.

25 Q. And to do this work, you take a hook and pick up

1 the meat out of the vat?

2 A. So some device are taller than the other. Some
3 of them are just this tall and some of them will
4 be just right on the stomach (indicating). And
5 when the vats is -- is full, it's much easier to
6 use the little hook and, you know, drop on the --
7 on the table, but when it's going down, it's much
8 harder because you got to use the long hook to
9 get it up and to use the small hook to throw it
10 on the table.

11 Q. All right. And once you throw the meat on the
12 table, what are you supposed to do with it?

13 A. Once you -- you drop them or you put them on the
14 table, there is two other guys that are supposed
15 to hang them on -- on the tree. So your job is
16 to make sure it did not stop it or slowing down.
17 You got to make sure they having something to do.

18 Q. Now, have you ever seen anybody work on the
19 Arby's by themselves?

20 A. After -- after my complaint, I saw --

21 Who?

22 THE WITNESS: (In English) Becky.

23 A. -- I saw Becky doing it, but the difference was
24 Becky had one person hanging the meat on the tree
25 and she was by herself on the vats, you know,

1 putting the meat on the table which is different
2 than I have two people hanging meat on the tree
3 where I'm pulling those meat by myself.

4 Q. Okay. So you saw Becky doing it alone but she
5 only had one person hanging the meat on the
6 trees, you had two. Is that what you're saying?

7 A. (In English) Yeah. (Through interpreter) Yes.

8 Q. And did you ever see Wally Mohammed doing this
9 alone?

10 A. I don't know because where we are, there is a
11 wall that is between us. That means you can't
12 see what's going on on the other side.

13 Q. So it's possible other people did this by
14 themselves, isn't it?

15 A. After my complaint, my complaint, it seems like
16 they started doing it but before, before that, it
17 never -- it never occurred, it never happened.

18 Q. You never saw anyone working on it?

19 A. (In English without translation of question)

20 No, before, no, never.

21 Q. But is it possible they did it and you just
22 didn't see it?

23 A. (In English without translation of question)

24 No.

25 (Sotto voce discussion between witness and

1 interpreter.)

2 A. If -- if it would happen, like, one of -- you
3 know, if it happen, if I was there, I will
4 just -- I will have seen it before, but the
5 reason why I call BJ is because I never seen
6 somebody doing that before.

7 Q. And so Exhibit 21 is the grievance that you
8 filed?

9 A. Yes.

10 Q. And Monica Derby did an investigation, didn't
11 she?

12 A. I don't even know, who's Monica?

13 Q. Monica Derby in human resources?

14 A. I only know Scott Reed and Carrie. Those are the
15 only two people that I know.

16 Q. Okay. Well, there's some notes from human
17 resources and Monica's notes saying that she had
18 interviewed people relating to your grievance.
19 And then it says she met with you and BJ and Tom
20 Zuroff and Tom Anderson afterwards to talk about
21 the grievance.

22 No, I'm sorry, let me take that back. She
23 says she met with you and BJ and Lisa Christion
24 to talk about the grievance. You don't remember
25 that?

1 A. I never sat down with Lisa in any room anywhere
2 to discuss about --

3 Q. Okay.

4 A. -- anything.

5 Q. Okay. So maybe I'm wrong on these notes.
6 Afterwards, do you remember any discussion with
7 anybody about your grievance?

8 A. I went to talk to the union because I wanted a
9 copy of it, of this -- this complaint, and
10 because HR, they never, ever give me -- every
11 time I take down a complaint, they never, ever
12 make a copy on me. They only copy they do, they
13 make one copy there. They're supposed to make
14 copy one for them, the original for them, the
15 copy -- one copy to the union, and then a copy to
16 me. So I went to the union after this to get
17 this copy because I knew HR would never give me a
18 copy.

19 MS. CALEM: Okay. Can we mark this next in
20 order, please.

21 (Naambwe Deposition Exhibit 22 marked.)

22 Q. Exhibit 22 is a document that you may not have
23 seen before but it's a memo from Monica. And
24 it's a memo to Scott Reed, and it says that
25 Monica Derby met with BJ, Tom Zuroff, David

1 Hillberg, Gary Loger and Sala Naambwe in human
2 resources on September 12th, 2016. Do you
3 remember that meeting?

4 A. Never.

5 Q. Can you look at this document, look at the first
6 sentence.

7 (Sotto voce discussion between witness and
8 interpreter.)

9 A. I have never sat down with -- in a conference
10 like -- like how it is written here in a meeting
11 with me and these people right here. The only
12 time that HR is when I go down to HR, I talk to
13 Scott Reed.

14 Q. Do you remember on any occasion Monica telling
15 you or anybody telling you that they had reviewed
16 the payroll for August 22nd to see how many
17 people were available to work that day?
18 (Interpretation in progress.)

19 THE INTERPRETER: The payroll for?

20 MS. CALEM: They reviewed the payroll for
21 the department to see how many people were
22 available on August 22nd.

23 A. I don't know anything about payroll because we
24 never discuss about salaries.

25 Q. No. I'm not talking about salaries. I'm just

1 saying, do you remember Monica said she checked
2 the payroll to see how many people were working
3 on August 22nd?

4 A. When? When did this happen?

5 Q. Well, you say you don't remember this meeting.
6 The notes show she gave you this information at a
7 meeting. You say you didn't go to that meeting,
8 so I'm just asking you whether Monica told you
9 that there weren't so many people available in
10 the department that day and she knew because she
11 looked at the payroll.

12 A. The only -- the only meeting that I can recall is
13 a meeting that I had, me and Scott Reed and there
14 was another lady that I -- that I saw for the
15 first time, I can't remember her, but that
16 meeting was because of my attendance because she
17 had a paper and she was showing me the other
18 employees are working nine hours but I'm working
19 less than nine hours. Then I told her that I'm
20 sick, I'm always -- I'm taking -- I mean, I'm
21 punching out to go to hospital and that is when I
22 got suspension for my -- for my attendance.
23 That's the only meeting that I recall can Scott
24 Reed.

25 Q. Well, I'm going to read a little bit of

1 Exhibit 22 and you tell me if you remember
2 anything, like any conversation of this sort.

3 A. Yes.

4 Q. All right. So this memo from Monica says, I
5 began by informing Sala that BJ and I have spent
6 much time on her concern and have conducted a
7 thorough investigation. BJ asked Sala to explain
8 her grievance and Sala expressed that she was
9 working by herself Monday on Arby's and on
10 Wednesday they had four people. She asked for
11 help but others had been sent home.

12 All right. That was your grievance, right,
13 that you were working by yourself?

14 A. Yes.

15 Q. Okay. And do you remember Monica saying that she
16 and BJ had done an investigation?

17 A. Now, for this grievance I remember.

18 (Sotto voce discussion between witness and
19 interpreter.)

20 A. The personnel office called me. They call me, I
21 was working, and then I went downstairs and they
22 told me that I was -- I was wanted and then they
23 send me to Carrie, and then Carrie did not want
24 to speak to me. She send -- she send me to
25 Monica, and I went to Monica and --

(Sotto voce discussion between witness and interpreter.)

A. -- and I found she had the grievance complaint on his desk so she asked me, do you know anything about this, and I say yes. And then she said, yes, I see your complaint, you're complaining, I'm going to working on it, I will let you know. And since that day, I never know what's going on, what's happened.

Q. All right. So Monica wrote this whole memo dated September 12th and you're saying that Monica made that all up?

A. She said I was told to speak the truth when -- when they oathed me so I'm speaking the truth. I am personally called BJ and BJ showing what -- what they doing to me. I'm the one who made that complaint. Since that day, I never -- I never sat down with these people that you have names down. The only time that I see -- that I sat down with --

THE WITNESS: (In English) Zuroff.

A. -- Zuroff is when the incident happened between me and Scott Gonzales. After that time, I never, ever sat down with these people.

Q. So you're saying that this is all made up? Yes

1 or no.

2 A. Yes, it is made up.

3 Q. Okay. On the day that you were working by
4 yourself on Arby's, isn't it true that seven
5 people were on leave that day?

6 THE INTERPRETER: The whole Honey line was
7 gone, she said.

8 BY MS. CALEM:

9 Q. My question was, on that day, do you know if
10 seven people were on leave, they were on
11 vacation?

12 A. I don't know.

13 Q. All right. And did you know that when they
14 checked people's hours, there were nine people
15 who had worked only a little bit less time than
16 you?

17 A. I don't know.

18 Q. Is the Arby's work assigned based on seniority?

19 A. No.

20 Q. No?

21 A. (In English without translation of question)

22 No.

23 THE INTERPRETER: Arby's is a -- she say, is
24 a job when -- when people are -- they have extra
25 people, they send them to do it. It doesn't

1 A. It was an easy job that I was doing.

2 THE INTERPRETER: I don't know how I can
3 explain, but she said she was doing the meat --
4 what do you call it -- she was doing the meat
5 like this. I don't know how you call it. And --

6 Q. Wait. She was doing meat like this?

7 A. (In English) The hams. (Through interpreter) The
8 ham.

9 Q. Ham?

10 A. (In English without translation of question).

11 Yeah, because on the Handy line, when
12 somebody clip hams, so because the machine was
13 dead, they -- you have to squeeze the meat like
14 this (indicating) to make, you know.

15 Q. Okay. So you were sort of massaging the meat by
16 hand?

17 A. (In English without translation of question).

18 Yeah, massage meat by hand. So you push on
19 trim med, and that's the job I was doing --

20 Q. Okay.

21 A. -- and Gary bring a brown helmet, she just have
22 one, like, two week -- two weeks, and she bring
23 it over there and told me to go to Grade 3. And
24 I said --

25 COURT REPORTER: To where?

1 THE WITNESS: Grade 3.

2 THE INTERPRETER: She said Grade 3.

3 COURT REPORTER: Grade 3?

4 THE WITNESS: Yeah.

5 A. -- and I said, no, I worked at that job before
6 and she can't come taking my job when I'm high
7 seniority. She just brown helmet so she can go
8 do the Gauge [sic] 2. She said, oh, you don't
9 want to do high job, don't you? I said, no, I'm
10 -- yes, I do, you know I do, but I'm just telling
11 you, she's -- she's a high -- a low seniority,
12 she's new department, so she can do that job
13 because we did, all of us, we did. And, okay, I
14 have a shit. You going to work and that shit is
15 going to shit all over you. And, yes, and he
16 gave me --

17 COURT REPORTER: Can you say that --

18 THE INTERPRETER: She say, I have a shit?

19 THE WITNESS: (In English) Yes, I have the
20 shit and you're going to work that shit and it's
21 going to shit all over you.

22 COURT REPORTER: I have the shit and you're
23 going to work the shit and it's going to shit all
24 over you?

25 THE WITNESS: (In English) Yes.

1 And, yes, he put me in the alley, you know,
2 in the room, hams room. It was some spray, black
3 spray so you spray on top of alley. I was work
4 with the Gonzales and, you know, I have allergy
5 with something like that. So whatever Gonzales,
6 he sprayed, some -- some spray come to my face
7 and I was -- yes, it was -- all over my body was
8 the -- all the plastic and my helmet. It was
9 black, black, like that shit is shit, you know.

10 COURT REPORTER: What?

11 THE WITNESS: He say he got the shit and is
12 going to shit all over me, yes, it was all over
13 me and I got sick.

14 (Sotto voce discussion between witness and
15 interpreter.)

16 A. After he told me that he's going to, like,
17 whatever, he made that comment he's going to shit
18 on me, he put me in a room where there is
19 something like liquid and stuff where you put
20 it -- you put on --

21 THE WITNESS: (In English) On some machine.

22 Q. -- on some machine --

23 THE WITNESS: (In English) On some machine.

24 A. -- and then you spray it on -- you spray that
25 on --

1 THE WITNESS: (In English) On top of Arby's.

2 A. -- on top of Arby's. That's the room where he
3 put me in, me and -- who?

4 Gonzales?

5 THE WITNESS: (In English) Scott Gonzales.

6 A. -- yes, Scott Gonzales.

7 Q. Scott Genzler?

8 A. (In English without translation of question)

9 Uh-huh.

10 Q. Okay. When did this happen?

11 A. I don't remember, I promise, but I know it was
12 2016.

13 THE INTERPRETER: It was 2016.

14 THE WITNESS: Uh-huh.

15 BY MS. CALEM:

16 Q. All right. So you said you were doing the
17 massaging ham job and Gary brought over somebody
18 who was new, a brown helmet, to do the job and
19 sent you to do something else?

20 A. (In English without translation of question)

21 Right.

22 Q. And you argued with him, you said didn't want to
23 do the other job, and she was -- and you had more
24 seniority so you shouldn't have to?

25 A. (In English without translation of question).

1 Yeah. I told him I'm high seniority and I
2 pick up on my job in the morning, she just come
3 up there so she can go over there. He didn't
4 like me to say that.

5 Q. Gary doesn't like to be argued with, right?

6 A. (In English without translation of question)

7 No. I wasn't arguing. I was just telling
8 him the truth, because we have to follow the
9 rules. Seniority is seniority and low seniority
10 is low seniority.

11 Q. Well, is it possible that the brown helmet wasn't
12 able to do the other job for some reason?

13 A. (In English without translation of question)

14 Sure, she's grown woman.

15 Q. She's what?

16 (Sotto voce discussion between witness and
17 interpreter.)

18 THE INTERPRETER: Let me explain the
19 question again because....

20 (Sotto voce discussion between witness and
21 interpreter.)

22 THE INTERPRETER: She said she don't know if
23 that person was unable to do the job, because
24 what I know, if you come to the job, if you come
25 to the company, you come there to work, so.

1 BY MS. CALEM:

2 Q. All right. Did you ask Gary why he was having
3 the brown helmet do your easy job and sending you
4 to do the other job?

5 A. I ask him and he said -- he answered that I say
6 what I say, you have to do what I say.

7 Q. So you asked him why --

8 THE WITNESS: (Response in Swahili.)

9 Q. Yes?

10 THE INTERPRETER: And he answered -- Yes.

11 BY MS. CALEM:

12 Q. And he answered you just have to do what I say?

13 A. Yeah.

14 Q. Okay. And then instead of taking the job he
15 wanted to assign you, he gave you another job
16 where you had to spray black paint?

17 A. Yes.

18 Q. And it was in a room with, you said something
19 about Arby's?

20 A. After the meat are hanging on a --

21 On a tree, right?

22 THE WITNESS: Uh-huh.

23 A. -- they -- they put them on the scale.

24 Q. On the scale?

25 A. (In English) Yes. (Through interpreter) Yes.

1 And then place them in the room.

2 COURT REPORTER: And what them in the room?

3 MS. CALEM: They placed them in the room.

4 COURT REPORTER: They placed them in the
5 room, thank you.

6 A. That's where he send me to work.

7 Q. And what were you spraying -- if there was meat
8 in the room, what were you spraying?

9 A. I was spraying -- I was spraying to those Arby's.

10 Q. Spraying the actual meat?

11 A. (In English without translation of question)

12 Uh-huh.

13 Q. And you said there was -- it was black, whatever
14 you sprayed was black?

15 A. (In English without translation of question)

16 Like this (indicating).

17 Q. And it got all over you?

18 A. (In English without translation of question)

19 Yep.

20 Q. And you were wearing your plastic and your
21 goggles and your helmet, right?

22 A. (In English without translation of question)

23 You can't wear plastic on the helmet. You
24 just put on top.

25 Q. Put the helmet.

1 A. (In English without translation of question)

2 Uh-huh.

3 Q. And Scott Genzler was doing it with you.

4 A. (In English without translation of question)

5 Yes.

6 Q. Have you ever seen anybody else do this job?

7 A. (In English without translation of question)

8 Like a woman?

9 Q. Anybody.

10 A. (In English without translation of question)

11 Only men.

12 Q. How do you know who's done the job if it's in a
13 separate room?

14 THE INTERPRETER: She said sometime they
15 will see it while they go to -- on a break or
16 sometime when they're waiting for more Arby's to
17 go in, to go in the room, they will see them
18 coming out. That's how they --

19 BY MS. CALEM:

20 Q. And you've only seen men do this?

21 A. Yeah, only seen men do this.

22 Q. Now, was Gary involved in this Scott Genzler
23 incident at all?

24 THE INTERPRETER: Was?

25 BY MS. CALEM:

1 Q. Was Gary involved in the incident with Scott
2 Genzler?

3 A. He's a supervisor. He didn't want to have
4 anything to do but he knew because he was a
5 supervisor.

6 Q. But he was not involved in any of the activities
7 that took place afterwards, right?

8 A. Can you repeat again?

9 Q. Yeah. I mean, you had a lot of meetings
10 afterwards, after this incident, discussions in
11 the department. Gary was not part of that,
12 right?

13 A. (In English without translation of question)
14 No, but Scott Gonzales.

15 Q. Everybody else. You just assumed Gary knew about
16 the incident with Scott Genzler because that's a
17 supervisor?

18 A. (In English without translation of question).
19 Yeah, he know everything.

20 Q. Okay. And that happened one time in 2016,
21 correct?

22 A. Yeah.

23 Q. Did it happen any other time?

24 A. (In English without translation of question)
25 Yeah. Another time he told me to put the

1 net -- Great Bend line net --

2 COURT REPORTER: The what? The Great --

3 A. -- the Great Bend line net.

4 And that was a Grade 3 again and I never see
5 any woman do that job. And I said why are you
6 sending me over there to do that job, and I never
7 see any woman do this job. You have to do it.
8 And I said, no, I can't do it. It's men job and
9 it's Grade 3 and you never pay me. Even I work a
10 Grade 3, you never pay me so find some man to do
11 this job because I never see any woman do this
12 job. How you see me, I look like a man to do
13 this job? So he got mad.

14 Q. When was this?

15 A. (In English without translation of question)

16 2016. I can't -- in 2016, too many things
17 happened, too much, so.

18 Q. You don't remember when in 2016?

19 A. (In English without translation of question)

20 No. I know it was 2016.

21 Q. So Gary told you to put nets on the Great Bend
22 line and you said, no, that's a job for a man?

23 A. (In English without translation of question)

24 It was -- it was a job Great Bend line, but
25 that time it was on Handy line, because Great

1 Bend line -- if the Handy line, if they don't
2 have the ham, they bring Great Bend line to the
3 production and work on the Handy line, so on that
4 time we work on the Handy line.

5 Q. You were on the Hand line?

6 A. (In English without translation of question)

7 Yeah.

8 Q. Okay. And he told you to put the nets on?

9 A. (In English without translation of question)

10 Right.

11 Q. And you said, no, only men do that job; is that
12 right?

13 A. (In English without translation of question)

14 Yeah, because there's many job Grade 3, and
15 no woman, I never saw any woman do that job
16 except only me, he wanted me to do that job.

17 Q. Okay. And did you do the job?

18 A. (In English without translation of question)

19 No, I didn't do it. Because I didn't have a
20 choice, that's that day I learn, I asked Elda
21 because when they do, like, PT some production I
22 know, PT, they have some horn you can take, like,
23 a net and push it like this (indicating) and
24 hands like this and it's kind of, like, easier,
25 but when Great Bend line come, they remove --

1 they remove the -- the things.

2 So that day I wasn't have a choice and I
3 tell Elda, please, wait, let me try. So I tried
4 that meat and I push it like that (indicating),
5 oh, it's easy. So I keep working that job
6 because still now, still now they still do the
7 same thing the same way I used to do I tried that
8 day, because it was hard to me and my mind told
9 me, try to do this. When I try, it came okay.
10 And still now, they take my idea, that's how the
11 work is still now.

12 Q. So you did do the job?

13 A. (In English without translation of question)

14 Yes, I did.

15 Q. And you figured out a different way to put the
16 nets on?

17 A. (In English without translation of question)

18 Right.

19 Q. Okay. And it wasn't so hard when you used your
20 technique?

21 A. (In English without translation of question)

22 No. It was easy to me.

23 Q. All right. So although you argued with Gary, you
24 ended up doing the job that day?

25 A. (In English without translation of question)

1 No. I wasn't argue. I just tell him, I say
2 Gary -- and I ask him, I said, Gary, why did you
3 do this to me? I am a woman and this is a man
4 job. You have too much mens here, why you can't
5 call the one man. He said, I said what I said
6 and you have to do whatever I say. So I was,
7 like, this is kind of like maybe they want to
8 fire me because I didn't want to work to do this
9 job, because last time he did that and I said no,
10 he put me somewhere else. No, I don't want to go
11 somewhere like that. And my mind told me, try to
12 put the net like this. So when I put it like
13 this, and I told Elda, try it and see how it's
14 going to come, when she tried, oh, my gosh, it
15 was good and now they take that idea. Even a
16 woman can do that job for them now.

17 But Great Bend line, no. It's only for men
18 because something big like this (indicating), and
19 when you put it like this (indicating), it hurt.
20 You might be feel this (indicating) hurt, your
21 nail, it's a hard job.

22 Q. So you're saying putting socks on the Great Bend
23 line is hard?

24 A. (In English without translation of question).

25 It is.

1 Q. Okay. And you were actually -- you did it on the
2 Hand line that day?

3 A. (In English without translation of question)

4 Huh?

5 Q. When you actually did the job and you said it was
6 easy, that was on the Hand line?

7 A. (In English without translation of question)

8 Yes.

9 Q. All right. And this was one time in 2016?

10 A. (In English without translation of question)

11 Uh-huh.

12 Q. Did you report this incident to human resources?

13 A. (In English without translation of question)

14 No.

15 Q. Did you report it to the union?

16 A. (In English without translation of question)

17 I told the union, but I said it's okay but I
18 told them to let them know what is going on
19 inside the department.

20 Q. Okay. What else happened that you consider to be
21 retaliation?

22 A. (In English without translation of question)

23 There's too much.

24 Q. I need to know.

25 A. (In English without translation of question)

1 Gary keep yelling me, I think it was March
2 what, when I got a suspending. It was ten days
3 of suspending. It was in the morning, because to
4 fight for my high seniority right, that job I
5 was -- because he said that -- Scott Reed says if
6 you pick a job on Mondays, it's your job the
7 whole week. And that job was already worked --
8 worked like five weeks.

9 Oh, I'm sorry, I take your job.

10 THE INTERPRETER: Go ahead.

11 THE WITNESS: (In English) No. Let me --
12 let me tell him.

13 (Sotto voce discussion between witness and
14 interpreter.)

15 A. On this job was -- this incident, so Gary in the
16 morning, he said, if you have senility [sic] --

17 Q. Seniority.

18 A. -- seniority stature, you -- you have a right to
19 pick any job on Monday morning in the morning,
20 and if you pick that job, you have a right to do
21 it same job the whole week. Because it was open
22 work, I was on that job for five weeks. I don't
23 know it happened or how Gary work up. He came
24 and brought somebody who only for a month in the
25 company to replace me at that position.

1 Q. Who was that person?

2 A. (In English without translation of question)

3 I'm sorry, I remember. It was Lorena. She
4 had her own job, her own assigned job, so she
5 took me to work at Grade -- he took me to work at
6 Grade 3 and took Lorena on her job to come pick
7 up on my job. I know Lorena, she's high
8 seniority but she have her own job, assigned job.
9 So I was, like, why he took somebody on her job
10 and come to replace me on my job I already work
11 five weeks. So I ask him that. He was upset.

12 So Lorena, she started work horn, put the
13 net on the horn because I don't know if she was
14 upset because I was doing that job. He told --
15 he told Lorena, go tell her to put the socks on
16 the horn and so you can -- you can work her job.
17 I said, this job is mine and today is not Monday.
18 Today is kind of like, I think it was between
19 Wednesday and Tuesday so you can't just bump me
20 like that. And like that, you can't bump
21 somebody because it's low seniority on Wednesday
22 or Thursday.

23 So Gary was upset. He sent me to another
24 line and I went to work to another line. And he
25 came in the morning earlier. He started come.

1 He asked me which job you want to do, and I said
2 the one you give to me, my job. He said, no, no,
3 no, you have to go work over there. So he was
4 close to me yelling at me like, just like
5 (indicating) almost touch my lips. And I say,
6 why you harass me like that? This is morning.
7 We don't even go to line. Why you harass me like
8 that? And he took me to personnel office.

9 Q. Didn't you call him racist?

10 A. (In English without translation of question)

11 No. They twist harassment and harass and
12 racist because I'm broken English, then they
13 twist it and they believe it.

14 Q. Oh, so he thought you called him racist but you
15 were saying, why are you harassing me?

16 A. (In English without translation of question)

17 Yes.

18 Q. Okay. And that was a Monday, wasn't it, on
19 December 5th?

20 A. That was on Monday? It was December?

21 Q. Monday, December 5th, 2016. Maybe -- Here's your
22 grievance. You filed a grievance over this,
23 right?

24 A. Let me see.

25 MS. CALEM: Mark that next in order.

1 COURT REPORTER: Can we take a rest room
2 break here in a bit?

3 MS. CALEM: Why don't we take a break right
4 after you mark that.

5 (Naambwe Deposition Exhibit 23 marked.)

6 VIDEOGRAPHER: Okay. We're going to go off
7 the record. It's 3:43.

8 (A recess was taken at this time.)

9 (Lisa Marso is not present in the room.)

10 VIDEOGRAPHER: Okay. We're back on the
11 record. It's now 3:52. You can start.

12 BY MS. CALEM:

13 Q. All right. So I handed you what's been marked as
14 Exhibit 23, and this is a grievance that you
15 filed and the date on the grievance is
16 December 9, 2016, and it's about certain
17 write-ups that you got. And I think this relates
18 to the incident that you're talking about because
19 you got written up for this, right?

20 A. (In English without translation of question)

21 Yes.

22 Q. Okay. So I have notes that say this incident was
23 on a Monday and the deli line was down. Do you
24 remember the deli line being down?

25 A. Deli notified me that it was -- it was down. I

1 don't think that is true because there were
2 people working on that lane.

3 Q. Well, according to the notes of many different
4 people, the deli line was down so there were four
5 extra workers and they came over to smoked meat
6 wash and that's why Lorena bumped you because she
7 had more seniority, she got to pick her job.

8 A. Lorena said she was sent by Gary.

9 Q. Well, four extra workers were sent by Gary; isn't
10 that right?

11 A. I don't know. The only person that I know is
12 Lorena.

13 Q. All right. And then Gary asked you to pick
14 another job, right?

15 A. He told me to go to work on Handy line and I
16 went.

17 Q. Well, didn't he first ask you to pick another job
18 and you refused to pick one?

19 A. So on that -- on that day, he told -- he told --

20 THE WITNESS: (In English) She.

21 A. -- she told Lori [sic] to -- to come take my --
22 my spot and send me to the third degree --

23 THE WITNESS: (In English) Grade 3.

24 A. -- Grade 3 lane.

25 THE WITNESS: (In English) To ham.

1 A. -- to ham. I refused not to go there because I
2 had seniority compared to other employees who
3 were there -- who were there. So I told him he
4 should send us less -- that have less seniority
5 than I to go there instead of me.

6 Q. So he kept telling him, no, I have seniority, you
7 can't send me there, right? You were arguing
8 with Gary about the seniority?

9 THE INTERPRETER: It wasn't an argument.
10 That's what she said.

11 BY MS. CALEM:

12 Q. So the notes that we have from many different
13 people say that you kept saying I have seniority
14 and would not make a decision about which job to
15 choose so you were sent to work on the ham line.
16 Is that accurate?

17 A. So if it is -- You said you have notes. Who are
18 -- who wrote those notes? Who are those
19 employees?

20 Q. I don't need to answer your questions. I'm just
21 asking you, do you remember having a talk with
22 Gary and saying you had seniority and you would
23 not pick a job?

24 A. I did not refuse to go to do that job where he
25 sent me.

1 Q. Right. But first Gary was asking you to pick
2 another open job, wasn't he?

3 A. And he came -- he said -- when he came, he said
4 go do the Grade 3 job and I will have Lorena do
5 your job. And I told him, no, you got to go call
6 those two men who have a low seniority than I to
7 do the job.

8 Q. All right. The other two people who had less
9 seniority than you were sent to work on the Great
10 Bend Hand line but you don't like to work on that
11 line, right? Because Juan is there.

12 A. Yeah. That job is only for one person period.

13 Q. All right. So in any event -- Well, let me ask
14 you this: Do you remember that production was
15 stopped for seven -- seven or eight minutes
16 because of this conflict that you were having?

17 A. I don't know that.

18 Q. And you were written up for arguing with Gary?

19 A. On that day, I was -- I -- they didn't notify me
20 of anything, but the next day, that's when I
21 received this notification for suspension --
22 suspense -- suspension of --

23 THE WITNESS: (In English) Suspended.

24 A. -- suspended for ten days.

25 Q. Okay. So your ten-day suspension, some of it was

1 for absenteeism, right?

2 A. Yes, it was -- part of it was attendance, but
3 that attendance they claim was written by hand
4 by -- by the pen. Usually attendance is
5 kept on -- is kept by the computer, but on that
6 attendance they show me it was written by pen.

7 MS. CALEM: Let's mark this next in order.

8 (Naambwe Deposition Exhibit 24 marked.)

9 Q. You're being handed what's been marked as
10 Exhibit 24 to the deposition. Are these the two
11 disciplinary notices you got?

12 A. Yes.

13 Q. All right. The first one is the three-day
14 suspension for violation of Work Rule Number 15.
15 Says abusive language, combative behavior,
16 failure to cooperate. And it says that there
17 was -- that you had excessive arguments about
18 work assignments and called the supervisor
19 racist. So you disagree with that, right?

20 A. (In English without translation of question)

21 Yes, I disagree. (Through interpreter)

22 This -- this claim that I called him a racist is
23 not true. I was telling him that he is harassing
24 me, not a racist, but they twist it and they said
25 that I said racist. They do all these to find a

1 way to fire me.

2 BY MS. CALEM:

3 Q. Are you aware that there are three people who
4 heard you use the word "racist"?

5 A. When I went down there, when they call me, they
6 say, they asked Thomas Zuroff where those other
7 two people came from, if you say three people
8 heard -- heard me call him racist.

9 Q. I'm just asking, are you aware that other people
10 heard you use the word "racist"?

11 A. It was in the morning so those -- those people, I
12 don't know about them because it was in the
13 morning. It was I and Gary and Thomas, that they
14 came to me at a place where I was changing,
15 putting on the work gear so they the ones who
16 were there. So you said the other people heard
17 us so I don't know if that's something they made
18 up, you know, their opposition towards me.

19 Q. Did you tell Gary he treats you like a slave?

20 A. Yes, I told him.

21 Q. On that day?

22 A. Yes.

23 Q. And you did that on the line in front of
24 everybody?

25 A. It was on that day when he came yelling at me,

1 like, face to face where he came close to my --
2 to my face. Even his saliva was, you know,
3 come -- come out his mouth to, towards my face,
4 and that's when he heard [sic] my smell. And
5 after he heard my smell -- after he smell my
6 smell, he went and told Scott Reed that I was
7 chewing gum.

8 Q. And you're not supposed to chew gum on the floor,
9 right?

10 A. (In English) No. (Through interpreter) No,
11 you're not supposed to.

12 BY MS. CALEM:

13 Q. And why do you think Gary wanted to get rid of
14 you?

15 A. It wasn't -- it wasn't a gum that he claimed that
16 I had. It was a little thing that you put on the
17 tongue to take away, like, morning breath.

18 Q. It was a mint?

19 A. (In English without translation of question)

20 Yes, mint.

21 Q. And he thought you were chewing gum?

22 A. (In English without translation of question)

23 Right.

24 Q. And he reported that to Scott?

25 A. (In English without translation of question)

1 Right.

2 Q. Okay. And did you explain it was not gum?

3 A. (In English without translation of question)

4 Yeah. And I show Scott, I show him what I
5 was having in my pocket.

6 Q. All right. Now, you're saying that Gary is doing
7 this so that you will quit. Why do you think
8 that?

9 A. I feel this already because he treated me
10 differently than the other employees. It looks
11 like the other employees are just okay to him but
12 I am the one who always get picking on.

13 Q. You feel he picks on you?

14 A. Yes.

15 Q. And do you know why he picks on you?

16 A. I don't know why.

17 Q. All right. What else happened that was
18 retaliatory?

19 A. First of all, if I ask for hurt [sic], like, you
20 know, someone -- someone to come hurt me, they
21 never give me anybody to come hurt me out so I'm
22 always --

23 Q. To help you?

24 THE INTERPRETER: Yes.

25 A. -- I'm always there by myself.

1 Q. Okay. When do you ask for help and not get it?

2 A. I was -- I was very tired on -- I don't remember
3 exactly month or year, 2001 --

4 THE WITNESS: (In English) No. 2016.

5 THE INTERPRETER: Oh, 2016.

6 -- but I don't remember month. I was tired
7 of being treated like that. Then I asked someone
8 to take a picture, like a -- like a -- like a
9 testimony or witness if they -- if they refused
10 all they -- they disagreed that they don't --
11 they don't put me on the line by myself so I can
12 show people, whoever, or my lawyer, whoever, that
13 it is true that I am there by myself.

14 Q. So you're saying you're working on an entire line
15 by yourself?

16 A. It's two jobs. When -- when it comes the ribs,
17 they were put -- they put -- they were putting me
18 on by myself. When it comes to ribs, and there
19 was --

20 What else was there?

21 THE WITNESS: (In English) Arby's.

22 A. -- Arby's, they put me there, they put me by
23 myself over there.

24 Q. Okay. So we talked about the one time that you
25 were put on the Arby's by yourself and there was

1 a grievance about that, right? This was in
2 August.

3 A. I didn't report -- The one that you have is the
4 one that I -- they kept doing it, but I did not
5 report every incident but they kept doing it.

6 Q. All right. So on August 22, 2016, you reported
7 that you were on Arby's by yourself?

8 A. (In English without translation of question)
9 Yeah.

10 Q. And you're saying that happened on other
11 occasions?

12 A. (In English without translation of question)
13 Yeah.

14 Q. And when did it happen?

15 A. It continues like throughout -- throughout 2016
16 and 2017. Even there was an incident happen in
17 April where it was me and Yvette working on this
18 job and then one of the employee --

19 Employee, right?

20 THE WITNESS: (In English) No. Lisa, she's
21 team leader.

22 A. Lisa said that we are working faster compared
23 to --

24 THE WITNESS: (In English) Hold on. Let me
25 help.

1 So in April, me and Yvette was working ribs
2 so we was working how we supposed to be working.
3 Then the next day, Lisa, she came when I was --
4 when I was having hooks, we want to work again so
5 first he came, he told me, Sala, can you go to
6 Handy line to dig half and I said, okay, fine --

7 COURT REPORTER: To dig -- to dig what?

8 THE WITNESS: Meat, half -- it's smaller
9 meat that they mix with the big meat and they
10 work together.

11 So I said, Okay, so I went there. So her, I
12 think that she -- she cried to Lisa and said, why
13 am I be working by myself, and she said, yeah,
14 first I saw you Sala yesterday, you all working
15 too fast and too much. So he doesn't want to see
16 too much meat on the table like that so that's
17 why she separate you and Sala so you can't work
18 on the same vats.

19 But the next day, it was four people on the
20 tree working same job. I was, like, why? So
21 we're not supposed to two people here, but the
22 next day it was Wally and Becky on the same vats
23 working.

24 Q. Who is it who told you that you and Yvette have
25 worked too fast and so they were going to

1 separate you?

2 A. (In English without translation of question).

3 Lisa, she told that. Foos, he told her
4 that.

5 Q. Lisa said who?

6 A. (In English without translation of question)

7 Foos.

8 Q. Who's Foos?

9 A. (In English without translation of question)

10 The first name is Robert, Robert, Rob.

11 Q. Robert Foos?

12 A. (In English without translation of question)

13 Yeah, Foos.

14 Q. And he's the new supervisor?

15 A. (In English without translation of question)

16 Yes.

17 Q. So Lisa said Robert said you were working too
18 fast so we're going to separate you?

19 A. (In English without translation of question)

20 Yeah, because he don't want to see a lot of
21 meat on the table and that's how all of us work
22 all the time.

23 Q. All right. And then in 2016, how many times were
24 you assigned to work by yourself in Arby's?

25 A. (In English without translation of question)

1 I don't have it to a count because --

2 Q. Can you give me an estimate? Is it 10 times?
3 100 times? Five times?

4 A. (In English without translation of question)

5 No, no 100 times. It might be even 20, 30
6 by myself.

7 Q. Twenty or 30 times?

8 A. (In English without translation of question)

9 Yeah, I don't -- I don't want to argue with
10 them. Whatever I said why, I don't need the
11 help, they say you don't need the help? And the
12 woman said I arguing with them I don't want to do
13 a job. When I ask them for help, the woman say
14 I'm arguing with them, I don't want to do job.

15 Q. So it's your testimony that in 2016 you worked on
16 Arby's 20 times by yourself?

17 A. (In English without translation of question)

18 I didn't say that.

19 Q. Oh, well, how many times?

20 A. (In English without translation of question)

21 You're asking me in 2016 to how many times I
22 already work by myself, a hundred times or, and I
23 said, no, no hundred times.

24 Q. Okay. How many times?

25 A. (In English without translation of question)

1 It might be 10, 20.

2 Q. Ten to 20 times?

3 A. (In English without translation of question)

4 I never counted. That's why that day I got
5 mad to do that every time by myself and I -- I
6 take pictures working by myself.

7 Q. And that's the picture we don't have?

8 A. (In English without translation of question)

9 You do. You do have.

10 Q. You said there were two that -- Okay.

11 A. (In English without translation of question)

12 No. You do have it.

13 Q. We have that one in the pictures?

14 A. (In English without translation of question)

15 Yeah.

16 Q. All right. So the pictures are Exhibit 12 from
17 yesterday, so why don't you show me which picture
18 shows you working by yourself.

19 A. (In English without translation of question)

20 This one (indicating).

21 Q. Okay. This is on page 248, and this shows -- I
22 see two people in this picture. Which one is
23 you?

24 A. (In English without translation of question)

25 That's three people. Let me show -- That

1 person you see on, like, on the cloth, he was
2 ready to put the clothes on it. That's Lamar.
3 And it was Lamar and Abdallah. They was on the
4 tree. So I was put the meat on the table for two
5 men by myself.

6 Q. Okay. Are you in this picture?

7 A. (In English without translation of question)

8 Yes.

9 Q. Which one is --

10 A. (In English without translation of question)

11 You don't see me?

12 Q. Which one is you?

13 A. (In English without translation of question)

14 Let me see. This is me (indicating).

15 MS. POCHOP: Mark -- can she mark on it?

16 MS. CALEM: Yeah.

17 A. (Complies.)

18 Q. Let me see. Oh, right over there. So that's
19 you?

20 A. (In English without translation of question)

21 Yeah.

22 Q. And next to you is Lamar?

23 A. (In English without translation of question)

24 The one -- the one that's on the corner
25 right here (indicating)?

1 Q. Over here?

2 A. (In English without translation of question)

3 Yeah, here.

4 Q. That's Lamar?

5 A. (In English without translation of question)

6 That's Lamar.

7 Q. Okay. And on this -- in this picture, are you
8 doing Arby's work?

9 A. (In English without translation of question)

10 It was the ribs.

11 Q. Ribs. How was ribs different from Arby's?

12 A. (In English without translation of question)

13 Ribs is too much inside and might be
14 thousands, thousands inside, and you have to pick
15 one by one, because hook, you can't take three at
16 a time or four. You have to take one hook, one
17 by one (indicating) so you --

18 Q. You pick up a piece of -- rack of ribs one by
19 one?

20 A. (In English without translation of question)

21 Yeah, one by one. And you have to do fast
22 to feed it to two people.

23 Q. Okay. So you're taking ribs out of a big vat and
24 putting them on the table?

25 A. (In English without translation of question)

1 Right.

2 Q. Okay. And then Arby's, you're taking pieces of
3 meat but not ribs out of a vat onto the table.
4 Is that right? I don't understand the difference
5 between ribs and Arby's.

6 A. So the difference is ribs in the vats, they might
7 be many of them in a vats compared to the ribs.
8 Ribs -- or, I mean, Arby's --

9 THE WITNESS: (In English) The Arby's can't
10 do too many in the vats like ribs, because Arby's
11 is kind of big like this and thick like this
12 (indicating) so even Arby's you take one by one.
13 Ribs, too, same thing, but ribs go many inside
14 because something like this, like this, small is
15 not big like Arby's.

16 Q. Okay. But in both -- for both types of work
17 you're taking up meat from the vat and putting it
18 on the table, right?

19 A. (In English without translation of question)

20 Right.

21 Q. It's just one is some ribs and the other was a
22 different kind of meat, right?

23 A. (In English without translation of question)

24 Right. Right.

25 Q. Okay. Now, if you're in this picture, who took

1 Q. You can scan -- well, we're just talking about
2 the first page of Exhibit 12.

3 A. (In English without translation of question)
4 This one?

5 Q. Yes.

6 A. (In English without translation)

7 Okay. I took this picture because when
8 something happened in that department, if Tom
9 Zuroff is not there, because even if you tell Tom
10 Zuroff, he never go to office and say something.
11 But I used to go here and to call Thomas here,
12 say, can you please come. So they -- I don't
13 know if it's Lisa or Rusty, I don't know which
14 one, went to Scott Reed and say Sala, she
15 (unintelligible) --

16 COURT REPORTER: You went to Scott Reed and
17 said what?

18 A. I don't know who went to tell Scott Reed that
19 Sala was in this room and in this room, so Scott
20 Reed, he said no one will get inside that
21 (intelligible) room again and they put this --

22 COURT REPORTER: What room? Maybe I need
23 Elias --

24 Q. It's the pickle room, right?

25 A. (In English without translation of question)

1 Yeah.

2 Q. And you, in fact, were eating lunch in the pickle
3 room with Tom Anderson, weren't you?

4 A. (In English without translation of question)

5 No, that's not true.

6 Okay. So after Scott Reed say nobody get
7 inside of this room but they let her, Amanda, to
8 put the whole equipment in that house -- in that
9 room, and after work she can put the whole
10 equipment in that room, and in the morning she
11 had to get inside of the equipment [sic] and get
12 the equipment. That's why when she was get
13 inside, I took this picture, and when she came
14 out -- where's the other one?

15 Q. On page 243 there's another picture of the pickle
16 room.

17 A. (In English without translation of question)

18 Yeah, right here. She was coming out.

19 Q. Okay. So she's putting her equipment in there --

20 A. (In English without translation of question)

21 Yes.

22 Q. -- and then she's coming out?

23 A. (In English without translation of question)

24 Right --

25 Q. Okay.

1 A. -- so I was, like, because I went to, when I go
2 to report to union representative, if I needed
3 BJ, I go to call -- tell him, please, can you
4 call BJ for me and BJ will come so they didn't
5 like that so Scott Reed put this on.

6 COURT REPORTER: Can you say that --

7 Q. You have to just speak more slowly. Tell her
8 again slowly.

9 COURT REPORTER: When I talked to BJ.

10 A. (Witness continues in English) Oh, yeah. When
11 something happened in the -- like if they harass
12 me, making me walk by myself, so I will go over
13 there, that's where he work, and tell him,
14 please, can you call BJ for me so he can come to
15 be a witness. And when they tell Scott Reed that
16 I go in this room, eat in this room, stay in this
17 room, so Scott Reed, he said nobody who would get
18 into this room except only the employees that are
19 the position.

20 So after they did that to me, they allowed
21 this woman to put the whole equipment in this
22 room, and after work in morning but nothing
23 happen to her. They didn't tell her anything.
24 So I was, like, why did you do this to me and
25 that's why I taking this picture.

1 Q. Okay. So Tom works in the pickle room, right,
2 Tom Anderson?

3 A. (In English without translation of question)
4 Right.

5 Q. Okay. And so if a lot of people have said
6 they've seen you in the pickle room with him many
7 times, they would all be lying?

8 A. (In English without translation of question)
9 Yeah, they see me when I go to report.

10 Q. And not having lunch or spending breaks there?

11 A. (In English without translation of question)
12 They have the proof?

13 Q. I'm just saying.

14 A. (In English without translation of question)
15 No.

16 Q. You said you did not spend lunch and breaks
17 there?

18 A. (In English without translation of question)
19 No. They have proof?

20 Q. Okay. So how do you know Scott Reed is the one
21 who said nobody can go into the pickle room?

22 A. (In English without translation of question)
23 Because the supervisor, James, he talk and
24 he told me, don't you ever again go to that room
25 and they -- and Scott Reed say, no one get inside

1 this room again and they put the sign over there.

2 Q. So James told you --

3 A. (In English without translation of question)

4 James.

5 Q. -- that Scott Reed said no one should go in
6 there?

7 A. Uh-huh.

8 Q. James Siebert?

9 A. (In English without translation of question)

10 James River.

11 Q. James River?

12 A. (In English without translation of question)

13 Yeah, I think that's his last name.

14 Q. All right. Someone named James told you that
15 Scott Reed said nobody could go in the pickle
16 room, is that it?

17 A. (In English without translation of question)

18 He is a supervisor, yes.

19 Q. Okay. And you don't know if Dave Hillberg or any
20 of the other supervisors had anything to do with
21 that?

22 A. (In English without translation of question)

23 No.

24 Q. Okay. And do you know if anybody spoke to Amanda
25 about being in the pickle room?

1 A. (In English without translation of question)

2 I don't know.

3 Q. Okay. Do you know if Amanda was authorized to go
4 into the pickle room?

5 A. (In English without translation of question)

6 She might be because she was getting inside
7 there every day. I don't know if she was.

8 Q. All right. So let's go to the next page, 244.

9 What does -- is this a picture that you took?

10 A. (In English without translation of question)

11 Yep.

12 Q. What does this picture show?

13 A. (In English without translation of question)

14 This is picture shows that they was having
15 party in the labor room.

16 Q. This shows that they were --

17 COURT REPORTER: What room?

18 THE WITNESS: Labor room.

19 THE INTERPRETER: Labor?

20 THE WITNESS: Yeah.

21 COURT REPORTER: Labor room?

22 THE WITNESS: Yeah.

23 Q. They were having a party in the labor room?

24 A. (In English without translation of question)

25 Right.

1 Q. What's the labor room?

2 (Sotto voce discussion between witness and
3 interpreter.)

4 Q. Label room, label room, okay. So this is where
5 they do the labels?

6 A. (In English without translation of question)

7 Uh-huh.

8 Q. And how does this show a party? Who was having a
9 party?

10 A. It was -- it shows like they had --

11 (Sotto voce discussion between witness and
12 interpreter.)

13 A. It was like a party because they had a table with
14 the cloths on it and they had food on the tables
15 but the people were not there yet. They were
16 waiting for people to come. There was only one
17 person there --

18 Q. And do you --

19 A. -- but they had food on the table.

20 Q. Do you know whether there was permission to have
21 a party in the label room?

22 THE INTERPRETER: She's asking questions.

23 She said why -- I was disappointed because for
24 saying that I was chewing gum. Is the gum equal
25 to these food that was brought in this room so

1 why these people were there? If they had
2 permission, why can't they give all employees
3 permission to have food or chew gums?

4 BY MS. CALEM:

5 Q. Okay. Do you know the occasion for this party?
6 Do you know what the occasion was for this party?

7 A. I don't know. The only thing I know is in the
8 department.

9 Q. Okay. So this is significant -- Okay. Is the
10 label room a production area?

11 A. That is like a -- where they -- the production of
12 equipment.

13 Q. There's no raw meat in the label room, is there?

14 A. It's just -- No, there is no meat. It's just
15 some equipment they use to pack the meat.

16 Q. Okay. So in your mind, this picture is
17 significant because people are having a party but
18 you were in trouble for chewing gum; is that
19 right?

20 THE INTERPRETER: So I'm going to clarify
21 again to her because I'm -- she is said I wasn't
22 chewing gum, they disciplined me with --

23 Q. They disciplined you for chewing gum?

24 THE INTERPRETER: But I wasn't -- I wasn't
25 chewing gum.

1 Q. Right. I understand that. I'm just trying to
2 figure out the reason this picture is important
3 to you is because you're saying they're having
4 parties but they're still not letting people chew
5 gum. Is that it?

6 A. Yeah, that is the reason, the whole reason
7 because I feel like they -- they treated me
8 differently -- differently compared to other
9 people.

10 Q. Okay. And the next picture on page 245 we know
11 that Yvette took. We talked about that
12 yesterday. What about on page 246?

13 A. This picture is significant because OZ --
14 THE WITNESS: When OZ took a picture on
15 iPad --

16 A. When OZ took a picture of mine in his iPad, he
17 didn't get any trouble, any -- any verbal
18 warnings.

19 THE WITNESS: (In English) No.

20 THE INTERPRETER: Any trouble, right?

21 THE WITNESS: Uh-uh.

22 A. But I, when I took the picture, I was disciplined
23 by --

24 THE WITNESS: Wait.

25 (Sotto voce discussion between witness and

1 interpreter.)

2 A. OZ took my picture, and then Scott -- Rusty, he
3 was not permitted to be in this department but he
4 was coming all the time. Then I decided to take
5 a picture like proof that Rusty is there.

6 Q. Your position is Russ was not permitted to come
7 in the department?

8 A. (In English without translation of question)

9 Right. He was a transfer to another
10 department.

11 Q. So that means he can never step foot in his old
12 department?

13 A. (In English without translation of question)

14 That's what I heard.

15 Q. And is this a picture of Russ?

16 A. (In English without translation of question)

17 Yes.

18 Q. Okay. Is he the one wearing the blue hat?

19 A. (In English without translation of question)

20 Yes.

21 Q. And he's in Department 19?

22 A. (In English without translation of question)

23 Right.

24 Q. And where are you?

25 A. (In English without translation of question)

1 I was on the Honey line.

2 Q. In Department 19?

3 A. (In English without translation of question)

4 Right.

5 Q. Okay. So you saw Russ in Department 19 and you
6 decided to take his picture?

7 A. (In English without translation of question)

8 Right.

9 Q. Okay. And Russ was transferred to another
10 department after the incident where he tapped you
11 on the shoulder, right?

12 A. (In English without translation of question)

13 And spill water on my face. Oh, the
14 shoulder, I think he got a suspending or
15 something like that --

16 Q. Okay.

17 A. -- I think. And he went home one day, the next
18 day he come back. So I don't know what happened.
19 I don't know --

20 Q. Okay. So on one incident he tapped you on the
21 shoulder and said something like, what are you
22 going to do now that your partner is gone?

23 A. (In English without translation of question)

24 Yeah, he was poking me on my shoulder.

25 Q. And just he tapped you on the shoulder, and he

1 thought that Tom Anderson had bid out of the
2 department, right?

3 A. (In English without translation of question)

4 Yeah, that's what he came to tell me. He
5 poked me on my shoulder like (indicating) and I
6 was scared. And I look back, I'm, like,
7 (indicating) and, yeah, I want to ask you, how
8 you going to do now because your partner is
9 leaving, and I said, my partner is Jesus.

10 Q. Okay. Okay. And com -- you made a complaint
11 about that, right?

12 A. (In English without translation of question)

13 Right. Because it hurt me.

14 Q. Because he poked you on the shoulder?

15 A. (In English without translation of question)

16 Yeah.

17 Q. And he was suspended for that, right?

18 A. (In English without translation of question)

19 That's what I heard about.

20 Q. Okay.

21 A. I don't know.

22 Q. All right. And then on another occasion, he was
23 cleaning one of the lines and he sprayed water on
24 you and Abigail, right?

25 A. (In English without translation of question)

1 Right.

2 Q. Okay. And Abigail yelled at him, hey, you're --
3 you're getting us wet, right?

4 A. (In English without translation of question)

5 Right.

6 Q. Okay. And you were angry that he sprayed water
7 on you and he didn't apologize, right?

8 A. (In English without translation of question)

9 I didn't say anything, but when he come down
10 and we think maybe he's come to apologize to us
11 but I didn't say anything to him.

12 Q. But he didn't apologize?

13 A. (In English without translation of question)

14 No.

15 Q. Okay. And that you felt that that was very rude
16 of him, right?

17 A. (In English without translation of question)

18 He did -- I thought maybe he did on purpose.

19 Q. Sprayed you and Abigail?

20 A. (In English without translation of question)

21 Yep.

22 Q. Okay. And then he -- that same day, he walked
23 behind you and Abigail in the tight space, right?

24 A. (In English without translation of question)

25 Yeah. Abigail, he was, like -- she was,

1 like, out that place because it's tight place,
2 it's a little tight, so.

3 I think I take a picture. It's not here?
4 It's not here. I seen I have picture.

5 Q. Yeah. So on that day, the Honey line was down,
6 right?

7 A. (In English without translation of question)
8 It wasn't down. The -- the line tree, it
9 wasn't broken down so we replace to next line.

10 Q. Right. So it had to be fixed?

11 A. (In English without translation of question)
12 Yeah.

13 Q. And after the mechanics or maintenance finished
14 fixing it, Russ was spraying down that -- that
15 line, wasn't he?

16 A. (In English without translation of question)
17 Uh-huh.

18 Q. Yes?

19 A. (In English without translation of question)
20 Yes.

21 Q. And that's when he got and you Abigail wet,
22 right?

23 A. (In English without translation of question)
24 Right.

25 Q. Okay. And he did not apologize?

1 A. (In English without translation of question)

2 No.

3 Q. And then later that day, he was setting up the
4 sock again on the Honey line, right?

5 A. (In English without translation of question)

6 Who?

7 Q. Russ. No?

8 A. No.

9 Q. Okay. So let's just look at this picture.

10 (Naambwe Deposition Exhibit 25 marked.)

11 Q. All right. So on this day you made a complaint
12 that Russ brushed up against you, right, when
13 he -- when he went behind you?

14 A. (In English without translation of question)

15 It was the same day when -- it was the same
16 time when he spray water to us, so when he done,
17 he came around here (indicating).

18 Q. He came around in between these two machines?

19 A. (In English without translation of question)

20 Yes.

21 Q. Okay. And he squeezed through, he didn't say
22 excuse me, right?

23 A. (In English without translation of question)

24 Yes.

25 MS. POCHOP: Yes-or-no question.

1 THE WITNESS: Yes.

2 Q. He did not say excuse me?

3 A. (In English without translation of question)

4 No.

5 Q. And you were -- so where it says Sala with a
6 little star, that's where you were standing,
7 right?

8 A. (In English without translation of question)

9 No. This is on the end. I was -- I was,
10 like, in the middle.

11 Q. Okay. So he was -- All right. There's a star
12 here in the corner, says Russ is standing in this
13 area when washing the line, but in between these
14 two machines you were standing and Abigail was
15 standing and he went by you, right?

16 A. (In English without translation of question)

17 You want me to show you?

18 Q. Sure. If you want to show me.

19 (In English without translation of question)

20 A. Yeah. Here, this is star over here, that's where
21 Yvette that she was clipping and she was show
22 face that way, like I would show you, and usually
23 he was here with the -- put the net on the horn.
24 So and that time Abigail, he was wiping her face
25 but he was out here a little bit. So this table

1 you see over here, it was here on the middle, we
2 put the socks on it, so it was kind of like a
3 little bit space between.

4 Q. It was a tight space?

5 A. (In English without translation of question).

6 Yeah, between this table over here on the
7 socks. So when the rest come, I thought maybe
8 he's coming to say, I'm sorry, I did on mistake,
9 but he didn't do that. He just come close to us
10 and come to me like (indicating). So this one
11 with my booty, we was just touch each other and
12 that's how I got angry.

13 If -- if this was water, I should have let
14 it go, but when she's [sic] feeling my booty, I
15 feel so bad and that's why I went to report to
16 Scott Reed.

17 Q. So he brushed by you and Abigail, right, you
18 were --

19 A. (In English without translation of question)

20 Abigail -- Abigail, she was out here washing
21 her face.

22 Q. Okay. So he --

23 A. He was --

24 Q. -- squeezed in the space behind you and you he
25 touched you?

1 A. (In English without translation of question)

2 Yes.

3 Q. Okay. Did he -- did he touch you with his hands?

4 A. (In English without translation of question)

5 No. Only the lap.

6 Q. Okay. So his lap touched your behind?

7 A. (In English without translation of question)

8 Yeah, my booty.

9 Q. Okay. And that made you angry?

10 A. (In English without translation of question)

11 Yeah, I was -- I was, like, why he feeling

12 my -- my booty like that. It making me mad.

13 Q. So you think he was intentionally trying to feel
14 you?

15 A. (In English without translation of question)

16 Because he supposed to say excuse me and it
17 was too many ways that he supposed to pass by to
18 go another -- the way he want to go, so why he
19 came like here and you don't even say excuse me.

20 Q. So you thought he did it intentionally?

21 A. (In English without translation of question)

22 Yes.

23 Q. Okay. And do you know if Russ was disciplined
24 for this?

25 A. (In English without translation of question)

1 Q. And do you know if Russ was told he could never
2 come into Department 19 again?

3 A. (In English without translation of question)

4 I don't know.

5 Q. Okay. And one time he came in to visit Amanda,
6 didn't he?

7 A. (In English without translation of question)

8 All the time.

9 Q. And you took a picture of them, right?

10 A. (In English without translation of question)

11 It wasn't this time.

12 Q. Another time, though, right?

13 A. (In English without translation of question)

14 He was keep coming every day so I took the
15 picture because the way he was looking at me and
16 staring at me and I was so scared when he was
17 looking at. Sometime he might be too close to
18 machine and look at me between the machine
19 (indicating) and straight to my face so, and
20 that's why I took this picture. I was so scared.

21 Q. So you were -- you were scared because you
22 thought Russ was looking at you?

23 A. (In English without translation of question)

24 Maybe he might be do something to me.

25 Q. What would he do to you?

1 A. (In English without translation of question)

2 Who knows? If he have a gun, he shoot me.

3 Q. Okay. Is there anything else that was
4 retaliatory?

5 A. (In English without translation of question)

6 I think I want to stop at that.

7 Q. All right. Now, you took FMLA leave a couple of
8 times, correct?

9 A. (In English without translation of question)

10 Correct.

11 Q. And the first time you took it was from March 7th
12 through April 3rd, 2017?

13 A. (In English without translation of question)

14 Yes, I think.

15 Q. And then you returned to work after that?

16 A. (In English without translation of question)

17 Sure.

18 Q. Okay. Did anybody ever try to prevent you from
19 taking your FMLA leave?

20 A. (In English without translation of question)

21 No.

22 Q. Okay. You took other leave of absence in July of
23 2017, right?

24 A. (In English without translation of question)

25 For my FMLA?

1 Q. FMLA?

2 A. (In English without translation of question)

3 I can't remember, because it was too many
4 days and too many weeks that I stay home. I
5 can't remember which -- which one. It's too
6 many.

7 Q. And what was the reason for your FMLA leave?

8 A. (In English without translation of question)

9 For my health.

10 Q. What was wrong with your health?

11 A. (In English without translation of question)

12 My high blood pressure, my anxiety.

13 Q. Okay. And then you took leave again in November
14 of 2017, right?

15 A. (In English without translation of question)

16 Yep. I think.

17 Q. Okay. All right. And is it accurate you've been
18 diagnosed with several mental illnesses as well
19 as high blood pressure?

20 A. (In English without translation of question)

21 Yes.

22 Q. Okay. Paranoia?

23 A. (In English without translation of question)

24 That's what my doctor told me.

25 Q. PTSD?

1 A. (In English without translation of question)

2 I don't know. I just -- my doctor just
3 checking on me and give me the medicine. And I
4 remember one of my anxiety doctor, she ask me
5 to -- to take FMLA and I said I already have FMLA
6 already and she said okay, because this medicine
7 we give to you might be make you so tired and
8 sleepy so you have to take FMLA.

9 Q. Okay. And you've reported to your doctor that
10 you have hallucinations, you see people who are
11 not there. Is that accurate?

12 A. (In English without translation of question)

13 Yeah, sometimes.

14 Q. Does that happen at work?

15 A. (In English without translation of question)

16 Like that day, I -- I was almost fall
17 down --

18 (Sotto voce discussion between witness and
19 interpreter.)

20 A. One time, one day I was almost passed out. I
21 was --

22 Q. It says in your medical records that sometimes
23 you black out, you don't remember what's happened
24 for a little while. Does that happen at work?

25 A. Yeah, it happened at work.

1 Q. Did you tell your doctor that sometimes you see
2 people in flashes of light across the room?

3 A. Yes, I see some things like that.

4 Q. And does that happen at work?

5 A. All of that started when I started -- when this
6 problem started at work.

7 Q. All right. Well, these symptoms started in March
8 of 2017, right?

9 A. Yes.

10 Q. Okay. And your FMLA was related to these
11 symptoms, right?

12 A. (In English without translation of question)

13 Yeah.

14 Q. And currently you have a request for -- well,
15 you've been granted FMLA leave intermittently
16 when you need it; is that right?

17 A. I am approved through FMLA when -- when they
18 diagnosed me to the point where I don't have --
19 I'm not physically able to do anything at work.
20 That's when I'm -- I would be -- I would be
21 granted FMLA leave.

22 Q. And your doctor said that that might happen once
23 a month that you would need the FMLA leave?

24 A. Yeah, because I tried to renew it again. I don't
25 have it right now. But I renew. That's how --

1 that started this?

2 A. The first thing was when I was being called a
3 monkey, I'm not a human. And the second was the
4 fact that I found out I don't have a right at
5 work. And the third -- and the third, it -- it
6 looks like I -- I don't matter in the company,
7 I'm nothing. The fourth is the fact how they
8 treated me. That seems -- or that shows that I
9 am exactly a monkey.

10 Q. That shows that you are a monkey?

11 THE INTERPRETER: Yeah, or animal, she said,
12 because they treated me differently --
13 differently than the other people.

14 Q. But just to be clear, nobody has ever called you
15 a monkey since that Scott Genzler incident,
16 right?

17 A. No one has.

18 Q. And has your pay ever been reduced?

19 A. No. They're going to raise -- yeah, they gave me
20 raise, like, regularly whenever they, but the
21 grade that I was working --

22 Let me clarify that to her.

23 (Sotto voce discussion between witness and
24 interpreter.)

25 A. They were -- they wasn't -- they were not paying